

ACT #2017- 433

1 HB212
2 181344-4
3 By Representative Brown
4 RFD: Boards, Agencies and Commissions
5 First Read: 14-FEB-17



1
2 ENROLLED, An Act,

3 To amend Section 34-13-1, as amended by Act
4 2016-265, 2016 Regular Session, and Sections 34-13-3, 34-13-8,
5 34-13-10, 34-13-11, 34-13-20, 34-13-21, 34-13-23, 34-13-25,
6 34-13-26, 34-13-29, 34-13-31, 34-13-51, 34-13-52, 34-13-53,
7 34-13-54, 34-13-55, 34-13-56, 34-13-57, 34-13-70, 34-13-71,
8 34-13-74, 34-13-91, 34-13-110, 34-13-111, 34-13-112,
9 34-13-113, 34-13-115, 34-13-116, 34-13-120, 34-13-121,
10 34-13-130, 34-13-131, 34-13-132, and 34-13-134, Code of
11 Alabama 1975, and to add Sections 34-13-56.1, 34-13-117,
12 34-13-120.1, and 34-13-123 to the Code of Alabama 1975,
13 relating to the Alabama Board of Funeral Service and the
14 Funeral Service Practice Act; to provide further for
15 definitions; to provide further for the membership of the
16 board; to change the name of the executive secretary of the
17 board to the executive director of the board; to include the
18 grandchildren of the decedent in the priority list of those
19 persons eligible to act as authorizing agent for the decedent;
20 to require all appeals of public hearing determinations to be
21 taken to the Circuit Court of Montgomery County; to require
22 criminal history background checks of all prospective
23 licensees of the board; to require a managing funeral director
24 to live within 75 miles of the funeral establishment; to
25 require the biennial renewal of all licenses; to impose a

1 biennial administrative fee on all continuing education
2 providers; to shorten the time frame in which an expired
3 license may be reinstated from six months to 30 days; to
4 provide further for the public hearing process; to provide
5 further for the advertising of the presence of a crematory; to
6 require a managing funeral director or managing embalmer to be
7 employed at each funeral establishment; to provide for the
8 licensing and regulation of crematories and the licensure of
9 cremationists; to provide further for apprenticeships; to make
10 technical corrections; and in connection therewith would have
11 as its purpose or effect the requirement of a new or increased
12 expenditure of local funds within the meaning of Amendment 621
13 of the Constitution of Alabama of 1901.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 34-13-1, as amended by Act
16 2016-265, 2016 Regular Session, 34-13-3, 34-13-8, 34-13-10,
17 34-13-11, 34-13-20, 34-13-21, 34-13-23, 34-13-25, 34-13-26,
18 34-13-29, 34-13-31, 34-13-51, 34-13-52, 34-13-53, 34-13-54,
19 34-13-55, 34-13-56, 34-13-57, 34-13-70, 34-13-71, 34-13-74,
20 34-13-91, 34-13-110, 34-13-111, 34-13-112, 34-13-113,
21 34-13-115, 34-13-116, 34-13-120, 34-13-121, 34-13-130,
22 34-13-131, 34-13-132, and 34-13-134 of the Code of Alabama
23 1975, are amended to read as follows:

24 "§34-13-1.

1 "(a) For purposes of this chapter, the following
2 terms shall have the following meanings:

3 "(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY
4 SCIENCE. A school or college approved by the Alabama Board of
5 Funeral Service and which maintains a course of instruction of
6 not less than 48 calendar weeks or four academic quarters or
7 college terms and which gives a course of instruction in the
8 fundamental subjects including, but not limited to, the
9 following:

10 "a. Mortuary management and administration.

11 "b. Legal medicine and toxicology as it pertains to
12 funeral directing.

13 "c. Public health, hygiene, and sanitary science.

14 "d. Mortuary science, to include embalming
15 technique, in all its aspects; chemistry of embalming, color
16 harmony; discoloration, its causes, effects, and treatment;
17 treatment of special cases; restorative art; funeral
18 management; and professional ethics.

19 "e. Anatomy and physiology.

20 "f. Chemistry, organic and inorganic.

21 "g. Pathology.

22 "h. Bacteriology.

23 "i. Sanitation and hygiene.

24 "j. Public health regulations.

1 "k. Other courses of instruction in fundamental
2 subjects as may be prescribed by the Alabama Board of Funeral
3 Service.

4 "(2) ALKALINE HYDROLYSIS. The technical process that
5 reduces human remains to bone fragments using heat, water, and
6 chemical agents.

7 "(3)~~(2)~~ AMERICAN BOARD OF FUNERAL SERVICE EDUCATION.
8 That funeral service educational organization which is an
9 agency granted official recognition by the United States
10 Secretary of Education and which is composed of members
11 representing the American Association of College of Mortuary
12 Science, the Conference of Funeral Service Examining Board of
13 the United States, Inc., the National Association of Colleges
14 of Mortuary Science, and the University Mortuary Science
15 Education Association and which has as its object the
16 furtherance of education in the field of funeral service and
17 in fields necessary to, or allied with, the field of funeral
18 service, and further to formulate standards of funeral service
19 education and to grant accreditation to qualified schools and
20 colleges of mortuary science and to do all things incidental
21 to the foregoing.

22 "(4)~~(3)~~ APPRENTICE EMBALMER or EMBALMER'S
23 APPRENTICE. Any person engaged in the study of the art of
24 embalming under the instructions and supervision of a licensed
25 embalmer practicing in this state.

1 "(5)~~(4)~~ APPRENTICE FUNERAL DIRECTOR or FUNERAL
2 DIRECTOR'S APPRENTICE. Any person operating under or in
3 association with a funeral director for the purpose of
4 learning the business or profession of funeral director, to
5 the end that he or she may become licensed under this chapter.

6 "(6)~~(5)~~ AUTHORIZING AGENT. A person at least 18
7 years of age, except in the case of a surviving spouse or
8 parent, who is legally entitled to order the cremation or
9 final disposition of particular human remains.

10 "(7)~~(6)~~ BOARD. The Alabama Board of Funeral Service.

11 "(8) CASH ADVANCE ITEMS. Any item of service or
12 merchandise described to a purchaser using the term cash
13 advance, accommodation, cash disbursement, or similar term. A
14 cash advance item is also any item obtained from a third party
15 and paid for by a funeral provider on behalf of a purchaser.
16 Cash advance items include, but are not limited to, all of the
17 following:

18 "a. Cemetery or crematory services.

19 "b. Pallbearers.

20 "c. Public, or other, transportation.

21 "d. Clergy honoraria.

22 "e. Flowers.

23 "f. Musicians or singers.

24 "g. Nurses.

25 "h. Obituary notices.

1 "i. Funeral programs.

2 "j. Gratuities.

3 "k. Death certificates.

4 "l. Outer burial containers.

5 "m. Cemetery plots.

6 "n. Escorts.

7 "(9) CASKET. A rigid container designed for the
8 encasement of human remains.

9 "(10) ~~(7)~~ CEMETERY. A place dedicated to and used or
10 intended to be used for the permanent interment of human
11 remains. It may be either land or earth interment; a mausoleum
12 for vault or crypt entombment; a structure or place used or
13 intended to be used for the interment of cremated remains;
14 cryogenic storage; or any combination of one or more thereof.

15 "(11) ~~(8)~~ CEMETERY AUTHORITY. Any individual, person,
16 firm, profit or nonprofit corporation, trustee, partnership,
17 society, religious society, church, association or
18 denomination, municipality, or other group or entity, however
19 organized, insofar as they or any of them may now or hereafter
20 establish, own, operate, lease, control, or manage one or more
21 cemeteries, burial parks, mausoleums, columbariums, or any
22 combination or variation thereof, or hold lands or structures
23 for burial grounds or burial purposes in this state and engage
24 in the operation of a cemetery, including any one or more of
25 the following: The care and maintenance of a cemetery; the

1 interment, entombment, and memorialization of the human dead
2 in a cemetery; the sale, installation, care, maintenance, or
3 any combination thereof, with respect of monuments, markers,
4 foundations, memorials, burial vaults, urns, crypts,
5 mausoleums, columbariums, flower vases, floral arrangements,
6 and other cemetery accessories, for installation or use within
7 a cemetery; and the supervision and conduct of funeral and
8 burial services within the bounds of the cemetery. ~~It is the~~
9 ~~legislative intent of this chapter that a cemetery authority,~~
10 ~~to the extent that it engages in any of the activities~~
11 ~~described in this subdivision, shall not be affected by this~~
12 ~~chapter and shall not be deemed to have entered into or~~
13 ~~engaged in the practice of funeral directing, embalming, or~~
14 ~~funeral establishment operation.~~

15 "(12)(9) CONVICTION. The entry of a plea of guilty
16 or a guilty verdict rendered by any court of competent
17 jurisdiction, excluding traffic violations.

18 "(13) CREMATED REMAINS. Human remains recovered
19 after the completion of the cremation process, including
20 pulverization, which leaves only bone fragments reduced to
21 unidentifiable dimensions.

22 "(14)(10) CREMATION. The technical process, using
23 heat and flame, flames, or chemical agents, that reduces human
24 remains to bone fragments. The reduction takes place through

1 heat and evaporation. Cremation shall include the processing,
2 and may include the pulverization, of the bone fragments.

3 "(15)~~(11)~~ CREMATIONIST. A person ~~who performs~~
4 licensed by the board to perform the procedure of cremation.

5 "(16) CREMATION CHAMBER. The retort or vessel used
6 to reduce human remains to bone fragments.

7 "(17) CREMATION CONTAINER. The container in which
8 human remains are transported to a crematory, in which human
9 remains are placed in upon arrival at a crematory, or for
10 storage and placement in a cremation chamber for cremation.

11 "(18)~~(12)~~ CREMATORY. A building or portion of a
12 building that houses a ~~retort~~ cremation chamber and that may
13 house a holding facility for purposes of cremation and as part
14 of a funeral establishment.

15 "(19)~~(13)~~ EMBALMER. Any person engaged or holding
16 himself or herself out as engaged in the business, practice,
17 science, or profession of embalming, whether on his or her own
18 behalf or in the employ of a registered and licensed funeral
19 director.

20 "(20)~~(14)~~ EMBALMING. The practice, science, or
21 profession, as commonly practiced, of preserving,
22 disinfecting, and preparing by application of chemicals or
23 other effectual methods, human dead for burial, cremation, or
24 transportation.

1 "~~(21)~~~~(15)~~ FUNERAL. A ceremony for celebrating,
2 sanctifying, or remembering the life of a person who has died.
3 A funeral may be divided into the following two parts:

4 "a. The funeral service, which may take place at a
5 funeral home, church, or other place.

6 "b. The committal service or disposition, which may
7 take place by the grave, tomb, mausoleum, or crematory where
8 the body of the decedent is to be buried or cremated.

9 "(22) FUNERAL ARRANGEMENTS. The completing of
10 funeral service arrangements, cremation arrangements, and the
11 financial details of a funeral at the time of death. The term
12 includes the collection of vital statistic information, death
13 certificate information, obituary and funeral notice
14 completion, the completion of a statement of funeral goods and
15 services selected, organizing of funeral and memorial services
16 for families, and the ordering of cash advance items.

17 "~~(23)~~~~(16)~~ FUNERAL DIRECTING. The practice of
18 directing or supervising funerals, the practice of preparing
19 dead human bodies for burial by means other than embalming, or
20 the preparation for the disposition of dead human bodies; the
21 making of funeral arrangements or providing for funeral
22 services or the making of financial arrangements for the
23 rendering of these services; the provision or maintenance of a
24 place for the preparation for disposition of dead human
25 bodies; or the use of the terms funeral director, undertaker,

1 mortician, funeral parlor, or any other term from which can be
2 implied the practice of funeral directing; or the holding out
3 to the public that one is a funeral director or engaged in a
4 practice described in this subdivision.

5 "~~(24)~~(17) FUNERAL DIRECTOR. A person required to be
6 licensed to practice the profession of funeral directing under
7 the laws of this state, who ~~meets~~ consults with the public,
8 who plans details of funeral services with members of the
9 family and minister or any other person responsible for such
10 planning, or who directs, is in charge, or apparent charge of,
11 and supervises funeral service in a funeral home, church, or
12 other place; who enters into the making, negotiation, or
13 completion of financial arrangements for funeral services, or
14 who uses in connection with the profession of funeral
15 directing the terms funeral director, undertaker, funeral
16 counselor, mortician, or any other term or picture or
17 combination thereof when considered in context in which used,
18 from which can be implied the practicing of the profession of
19 funeral directing or that the person using such term or
20 picture can be implied to be holding himself or herself out to
21 the public as being engaged in the profession of funeral
22 directing; and for all purposes under Alabama law, a funeral
23 director is considered a professional. For the purposes of
24 this chapter, the term does not include any cemetery
25 authority.

1 "(25)(18) FUNERAL ESTABLISHMENTS. The term includes
2 any funeral home or mortuary service located at a specific
3 street address where the profession of funeral directing,
4 embalming, or cremation is practiced in the care, planning,
5 and preparation for burial, ~~or cremation,~~ or transportation of
6 human dead. ~~The term does not include any cemetery or land or~~
7 ~~structure owned, operated, leased, controlled, or managed by~~
8 ~~any cemetery authority as a cemetery.~~ A funeral establishment
9 shall consist of and maintain all of the following facilities:

10 "a. A preparation room equipped with sanitary
11 nonporous floor and walls, necessary drainage and ventilation,
12 and containing operating embalming equipment, necessary
13 approved tables, instruments, hot and cold running water,
14 containers or receptacles for soiled linen or clothing, and
15 supplies for the preparation and embalming of dead human
16 bodies for burial, cremation, and transportation.

17 "b. A display room containing a stock of adult
18 caskets and funeral supplies displayed in full size, cuts,
19 photographs, or electronic images. At no time shall less than
20 eight different adult size caskets be on the premises.

21 "c. At least one operating funeral coach or hearse
22 properly licensed and equipped for transporting human remains
23 in a casket or urn.

24 "d. If engaged in the practice of cremation, ~~at~~
25 ~~least one operable retort for cremation~~ the establishment

1 shall satisfy all crematory requirements provided in this
2 chapter and have on site an adequate supply of urns for
3 display and sale.

4 "e. A room suitable for public viewing or other
5 funeral services that is able to accommodate a minimum of 100
6 people.

7 "f. An office for holding arrangement conferences
8 with relatives or authorizing agents.

9 "~~(26)-(19)~~ FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
10 Caskets made of any material for use in the burial or
11 transportation of human dead; outer receptacles, when sold by
12 a funeral director, including burial vaults and urns, for
13 cremated human remains; clothing used to dress human dead when
14 sold by a funeral director; and all equipment and
15 accouterments normally required for the preparation for burial
16 or funeral and other disposition of human dead.

17 "~~(27)-(20)~~ GROSS IMMORALITY. Willful, flagrant, or
18 shameful immorality or showing a moral indifference to the
19 opinions of the good and respectable members of the community
20 and to the just obligations of the position held by the
21 offender.

22 "(28) HOLDING ROOM. Either of the following:

23 "a. A room within a funeral establishment that
24 satisfies the requirements of a branch location as provided in

1 this chapter or board rule, for the retention of human remains
2 before disposition.

3 "b. A room within a crematory facility, designated
4 for the retention of human remains before and after cremation,
5 that is not accessible to the public.

6 "(29) MANAGING CREMATIONIST. A licensed funeral
7 director and cremationist who has full charge, control, and
8 supervision of all activities involving cremation at a funeral
9 establishment or crematory.

10 "(30)+21+ MANAGING EMBALMER. A licensed embalmer who
11 has full charge, control, and supervision of all activities
12 involving the preparation room and embalming.

13 "(31)+22+ MANAGING FUNERAL DIRECTOR. A licensed
14 funeral director who has full charge, control, and supervision
15 of all activities involving funeral directing ~~at~~ for a funeral
16 establishment.

17 "(32)+23+ MORAL TURPITUDE. Any unlawful sexual or
18 violent act, or any act involving theft, theft of services,
19 extortion, receiving stolen property, identity theft, forgery,
20 fraud, tampering with records, bribery, perjury, or any
21 similar act in any jurisdiction.

22 "(33)+24+ MORTUARY SCIENCE. The scientific,
23 professional, and practical aspects, with due consideration
24 given to accepted practices, covering the care, preparation
25 for burial, or transportation of dead human bodies, which

1 shall include the preservation and sanitation of the bodies
2 and restorative art and those aspects related to public
3 health, jurisprudence, and good business administration.

4 "(34) (25) MORTUARY SERVICE. A location with a
5 specific street address where embalming or cremation, or both,
6 is practiced for a licensed funeral establishment and where no
7 services or merchandise are sold directly or at retail to the
8 public. A mortuary service shall consist of and maintain all
9 of the following facilities:

10 "a. A preparation room equipped with sanitary
11 nonporous floor and walls, operating embalming equipment, and
12 necessary drainage and ventilation and containing necessary
13 approved tables, instruments, hot and cold running water,
14 containers or receptacles for soiled linen or clothing, and
15 supplies for the preparation and embalming of dead human
16 bodies for burial, cremation, and transportation.

17 "b. At least one operating motor vehicle properly
18 licensed and equipped for transporting human remains in a
19 casket or urn.

20 "c. If engaged in the practice of cremation, ~~at~~
21 ~~least one operable retort for cremation~~ the establishment
22 shall satisfy all requirements for a crematory provided in
23 this chapter.

1 "(35)~~(26)~~ OPERATOR. A person, corporation, firm,
2 legal representative, or other organization owning or
3 operating a funeral establishment.

4 "(36)~~(27)~~ PRACTICAL ~~EMBALMERS~~ EMBALMER. Any person
5 who has been actively and continuously engaged or employed in
6 the practice of embalming under the supervision of a licensed
7 embalmer for four consecutive years immediately preceding May
8 1, 1975, and has been issued a license as a practical embalmer
9 under the grandfather provisions of this chapter.

10 "(37)~~(28)~~ PROCESSING or PULVERIZATION. The reduction
11 of identifiable bone fragments after the completion of the
12 cremation process to unidentifiable bone fragments or
13 granulated particles by manual or mechanical means.

14 "~~(29) RETORT. An enclosed space within which the~~
15 ~~cremation process takes place.~~

16 "(38)~~(30)~~ TEMPORARY CONTAINER. A receptacle for
17 cremated remains, usually composed of cardboard, plastic, or
18 similar material, that can be closed in a manner that prevents
19 the leakage or spillage of the cremated remains or the
20 entrance of foreign material, and is a single container of
21 sufficient size to hold the cremated remains until an urn is
22 acquired or the cremated remains are scattered or buried.

23 "(39)~~(31)~~ URN. A receptacle designed to encase
24 cremated remains.

1 "(b) Nothing in this chapter shall require a funeral
2 director or funeral establishment to have or provide a chapel
3 or to restrict the conduct of funeral services from a church
4 or chapel.

5 "~~(c) Nothing contained in the definition of funeral~~
6 ~~directing, or in any other provision of this chapter, shall be~~
7 ~~applicable to or regulate or restrict cemetery authorities in~~
8 ~~the conduct of activities of a cemetery authority, or be~~
9 ~~applicable to or regulate or restrict the carrying on by any~~
10 ~~cemetery authority of any activities, functions, practices,~~
11 ~~and services which may now or hereafter (1) constitute any~~
12 ~~part of the operation or management of a cemetery or of the~~
13 ~~property of a cemetery or (2) otherwise consist of the~~
14 ~~interment or entombment of the human dead or memorialization~~
15 ~~of the human dead in any manner within a cemetery property.~~

16 "§34-13-3.

17 "~~This chapter does not apply to any cemetery or~~
18 ~~cemetery authority or to any public institution, medical~~
19 ~~college, county medical society, anatomical association,~~
20 ~~college of embalming, or any officer thereof, or to any other~~
21 ~~recognized person carrying out the provision of the statutes~~
22 ~~of the State of Alabama prescribing the conditions under which~~
23 ~~indigent human dead bodies are held subject for scientific or~~
24 ~~anatomical study; provided, that nothing Nothing in this~~
25 ~~section chapter shall be construed to give any cemetery or~~

1 cemetery authority or any other person or entity the right to
2 enter into or engage in any funeral home operation or the
3 practice of embalming or funeral directing or any related
4 funeral home or funeral directing activities. Nor shall this
5 chapter include any temporary or occasional or extra help to
6 assist in the conduct of a funeral employed on such basis by
7 a funeral director, provided such funeral is under the ~~general~~
8 direct supervision of a licensed funeral director.

9 "§34-13-8.

10 "On application of any person and payment of the
11 cost thereof, the executive ~~secretary~~ director of the board
12 shall furnish, under the seal of the board and signed by the
13 executive ~~secretary~~ director, a certified copy of any license,
14 rule, regulation, or order. In any court or proceeding such
15 copy shall be prima facie evidence of the fact of the issuance
16 of such license, regulation, rule, or order and that such is
17 effective as of the date of such certificate.

18 "§34-13-10.

19 "Unless otherwise provided herein, violation of any
20 part of this chapter shall be a Class A misdemeanor which may
21 be prosecuted and shall be punishable as such under the laws
22 of Alabama. ~~It is further provided that those actions~~
23 ~~specifically enumerated in subdivisions (2)a. through (2)f.,~~
24 ~~(2)h., (2)j., (2)m., and (2)n. of Section 34-13-56 shall be~~
25 ~~punishable as a misdemeanor and may be prosecuted accordingly.~~

1 "§34-13-11.

2 "(a) A person, who is at least 18 years of age and
3 of sound mind, may enter into a contract to act as authorizing
4 agent and direct the location, manner, and conditions of
5 disposition of remains and arrange for funeral goods and
6 services to be provided upon death. Except as otherwise
7 provided in subsection (b), the right to control the
8 disposition of the remains of a deceased person as an
9 authorizing agent, including the location, manner, and
10 conditions of disposition and arrangements for funeral goods
11 and services to be provided, shall vest in the following
12 persons in the priority listed and the order named, provided
13 the person is at least 18 years of age and of sound mind:

14 "(1) The person designated by the decedent as
15 authorized to direct disposition pursuant to Public Law No.
16 109-163, Section 564, as listed on the decedent's United
17 States Department of Defense Record of Emergency Data, DD Form
18 93, or its successor form, if the decedent died while serving
19 on active duty in any branch of the United States Armed
20 Forces, United States Reserve Forces, or National Guard.

21 "(2)a. The person designated by the decedent in an
22 affidavit executed in accordance with paragraph b.

23 "b. Any person, at least 18 years of age and of
24 sound mind, may authorize another person to control the
25 disposition of his or her remains pursuant to an affidavit

executed before a notary public in substantially the following form:

"State of Alabama

"County of _____

"I, _____ designate _____ to control the disposition of my remains upon my death. I ___ have ___ have not attached specific directions concerning the disposition of my remains. If specific directions are attached, the designee shall substantially comply with those directions, provided the directions are lawful and there are sufficient resources in my estate to carry out those directions.

"Subscribed and sworn to before me this ___ day of the month of _____ of the year _____.

"_____(signature of notary public)"

"(3) The surviving spouse.

"(4) The sole surviving child of the decedent or, if there is more than one surviving child, a majority of the surviving children. Less than a majority of the surviving children may be vested with the rights of this section if reasonable efforts have been made to notify all surviving children of the instructions and a majority of the surviving children are not aware of any opposition to the instructions.

"(5) The sole surviving grandchild of the decedent or, if there is more than one surviving grandchild, a majority

1 of the surviving grandchildren. Less than a majority of the
2 surviving grandchildren may be vested with the rights of this
3 section if reasonable efforts have been made to notify all
4 surviving grandchildren of the instructions and a majority of
5 the surviving grandchildren are not aware of any opposition to
6 the instructions.

7 " ~~(6)~~(5) The surviving parent or parents of the
8 decedent. If one surviving parent is absent, the remaining
9 parent shall be vested with the rights and duties of this
10 section after reasonable efforts in locating the absent
11 surviving parent have been unsuccessful.

12 " ~~(7)~~(6) The surviving sibling of the decedent or, if
13 there is more than one surviving sibling, a majority of the
14 surviving siblings. Less than a majority of the surviving
15 siblings may be vested with the rights and duties of this
16 section if reasonable efforts have been made to notify all
17 surviving siblings of the instructions and a majority of the
18 surviving siblings are not aware of any opposition to the
19 instructions.

20 " ~~(8)~~(7) The surviving grandparent of the decedent
21 or, if there is more than one surviving grandparent, a
22 majority of the surviving grandparents. Less than a majority
23 of the surviving grandparents may be vested with the rights
24 and duties of this section if reasonable efforts have been
25 made to notify all surviving grandparents of the instructions

1 and a majority of the surviving grandparents are not aware of
2 any opposition to the instructions.

3 "(9)~~(8)~~ The guardian of the decedent at the time of
4 the death of the decedent, if a guardian had been appointed.

5 "(10)~~(9)~~ The personal representative of the estate
6 of the decedent.

7 "(11)~~(10)~~ The person in the classes of the next
8 degree of kinship, in descending order, under the laws of
9 descent and distribution to inherit the estate of the
10 decedent. If there is more than one person of the same degree,
11 any person of that degree may exercise the right of
12 disposition.

13 "(12)~~(11)~~ The public officer, administrator, or
14 employee responsible for arranging the final disposition of
15 the remains of the decedent if the disposition of the remains
16 is the responsibility of the state or a political subdivision
17 of the state.

18 "(13)~~(12)~~ Any other person willing to assume the
19 responsibility of acting on and arranging the final
20 disposition of the remains of the decedent, including the
21 funeral director that has custody of the body, in the absence
22 of any person specified in subdivisions (1) to ~~(11)~~ (12),
23 inclusive. The person shall attest in writing that good faith
24 efforts to contact the persons specified in subdivisions (1)
25 to ~~(11)~~ (12), inclusive, have been unsuccessful.

1 "(b) The right of disposition shall be forfeited and
2 passed to the next qualifying person listed in subsection (a),
3 in any of the following circumstances:

4 "(1) The person is charged with first or second
5 degree murder or voluntary manslaughter in connection with the
6 death of the decedent and the charges are known by the
7 mortician. If the charges against the person are dismissed or
8 the person is acquitted of the charges, the right of
9 disposition shall be reinstated.

10 "(2) The person does not exercise his or her right
11 of disposition within two days after notification of the death
12 of the decedent or within three days after the death of the
13 decedent, whichever is earlier.

14 "(3) If the person is the spouse of the decedent and
15 a petition to dissolve the marriage was pending at the time of
16 death of the decedent.

17 "(4) If the judge of probate court determines,
18 pursuant to subsection (c), that the person entitled to the
19 right of disposition and the decedent were estranged at the
20 time of death. For the purposes of this subdivision, estranged
21 means a physical and emotional separation that has existed for
22 such a period of time that an absence of affection, trust, and
23 regard for the decedent is clearly demonstrated.

24 "(c) Notwithstanding subsections (a) and (b), the
25 judge of probate of the county of residence of the decedent

1 may award the right of disposition to the person the judge of
2 probate determines to be the most fit and appropriate to
3 manage the right of disposition, and may make decisions
4 regarding the remains of the decedent if the persons
5 possessing the right of disposition do not agree. If two or
6 more persons who possess an equal right of disposition are not
7 able by majority vote to agree upon the disposition of the
8 remains of the decedent, any of those persons or the funeral
9 establishment with custody of the remains may file a petition
10 asking the judge of probate to make a determination in the
11 matter. In making such a determination, the judge of probate
12 shall consider all of the following:

13 "(1) The reasonableness and practicality of the
14 proposed funeral and disposition arrangements.

15 "(2) The degree of the personal relationship between
16 the decedent and each person possessing a right of
17 disposition.

18 "(3) The financial ability and willingness of each
19 person possessing a right of disposition to pay the cost of
20 the funeral and disposition arrangements.

21 "(4) The convenience and needs of other family
22 members and friends who wish to pay their respects and the
23 degree to which the funeral arrangements would allow maximum
24 participation by all who wish to pay their respects.

25 "(5) The desires of the decedent.

1 "(d) Absent negligence, wantonness, recklessness, or
2 deliberate misconduct in the event of a dispute regarding the
3 right of disposition, a funeral establishment may not be held
4 liable for refusing to accept remains, for interring, or for
5 otherwise disposing of the remains of a decedent or for
6 completing arrangements for the final disposition of remains
7 unless and until the funeral establishment receives an order
8 from the judge of probate, or other written agreement signed
9 by all persons possessing a right of disposition, regarding
10 the final disposition of the remains. If a funeral
11 establishment retains remains for final disposition during a
12 disagreement, the funeral establishment may embalm or
13 refrigerate and shelter the body, or both, to preserve the
14 body pending the final decision of the judge of probate. The
15 funeral establishment may add the cost of embalming or
16 refrigeration and sheltering, or both, to the final
17 disposition cost. If a funeral establishment files a petition
18 pursuant to subsection (c), the funeral establishment may add
19 any associated legal fees and court costs to the cost of final
20 disposition. This section may not be construed to require or
21 impose a duty upon a funeral establishment to bring an action
22 pursuant to this section. A funeral establishment and its
23 employees may not be held criminally or civilly liable for not
24 bringing an action pursuant to this section.

1 "(e) Except to the degree that it may be considered
2 by the judge of probate pursuant to subdivision (3) of
3 subsection (c), the fact that a person has paid or has agreed
4 to pay for all or a part of funeral and final disposition
5 arrangements does not give that person a greater voice in
6 right of disposition decisions than he or she would have had
7 otherwise. The personal representative of the estate of a
8 decedent, by virtue of being the personal representative, does
9 not have a greater voice in right of disposition decisions
10 than he or she would have had otherwise.

11 "§34-13-20.

12 "(a) There is established the Alabama Board of
13 Funeral Service, consisting of ~~seven~~ nine members, each of
14 whom shall be citizens of the United States and residents of
15 the State of Alabama. ~~All members of the former Alabama~~
16 ~~Embalming Board who are holding office on September 10, 1975,~~
17 ~~by virtue of that office, shall become members of the Alabama~~
18 ~~Board of Funeral Service for the term ending December 31,~~
19 ~~1976. Not more than one member of the Alabama Board of Funeral~~
20 ~~Service may reside in the same district as created under~~
21 ~~Section 34-13-21, and if more than one member of the State~~
22 ~~Embalming Board resides in one district at the time of the~~
23 ~~organization of the board, the Governor shall select one~~
24 ~~member of the Embalming Board to be a member of the original~~
25 ~~Alabama Board of Funeral Service from the district, and the~~

1 ~~other member of the Embalming Board shall not be eligible for~~
2 ~~membership on the board.~~

3 ~~"(b) At a special meeting called for such purpose,~~
4 ~~to be held in Montgomery, within 45 days from September 10,~~
5 ~~1975, the Alabama Funeral Directors Association, Incorporated,~~
6 ~~and the Alabama Funeral Directors and Morticians Association,~~
7 ~~Incorporated, in joint meeting, shall nominate three qualified~~
8 ~~persons for each of the positions as members of the original~~
9 ~~board of the Alabama Board of Funeral Service which are not~~
10 ~~filled by members of the State Embalming Board. The names of~~
11 ~~such persons so nominated shall be promptly certified by the~~
12 ~~secretary of the Alabama Funeral Directors Association,~~
13 ~~Incorporated, and the Alabama Funeral Directors and Morticians~~
14 ~~Association, Incorporated, to the Governor who shall appoint~~
15 ~~the members of the board from among the persons so nominated.~~
16 ~~Not more than four members of the board at any time may be~~
17 ~~members of the same race and the membership of the board shall~~
18 ~~be inclusive and reflect~~ The appointing authorities shall
19 coordinate their appointments to assure board membership is
20 inclusive and reflects the racial, gender, geographic,
21 urban/rural, and economic diversity of the state. At no time
22 may more than five members of the entire membership of the
23 board be of the same race or both consumer members be of the
24 same race. ~~The board shall annually report to the Legislature~~
25 ~~by the second legislative day of each regular session the~~

1 ~~extent to which the board has complied with the diversity~~
2 ~~provisions provided for in this subsection. Four members shall~~
3 ~~be appointed for a term ending December 31, 1977, and the~~
4 ~~board shall be constituted so that the terms of three members~~
5 ~~of the board shall end December 31, 1976, and the terms of~~
6 ~~four members shall end December 31, 1977. The terms of the~~
7 ~~members of the State Embalming Board, who become members of~~
8 ~~the Alabama Board of Funeral Service under this chapter, shall~~
9 ~~expire December 31, 1976, unless there are more than three~~
10 ~~such members, in which event, the Governor shall designate~~
11 ~~which of the three members of the State Embalming Board shall~~
12 ~~serve for terms ending December 31, 1976, and which shall~~
13 ~~serve for terms ending December 31, 1977.~~

14 ~~"(c) After selection of the original members of the~~
15 ~~Alabama Board of Funeral Service and during October of each~~
16 ~~year, all embalmers and all funeral directors licensed under~~
17 ~~this chapter shall meet in Montgomery, at a time and date in~~
18 ~~October and at a place fixed by the board, for the purpose of~~
19 ~~nominating three persons to the Governor for each vacancy on~~
20 ~~the board. Not more than two nominees shall be members of the~~
21 ~~same race. The Governor shall promptly appoint one of the~~
22 ~~three persons so nominated. If an appointment is not made~~
23 ~~before the expiration of the term of a board member, then the~~
24 ~~board member may continue to serve until a successor has been~~
25 ~~appointed.~~

1 ~~"(d) The successors to the original members of the~~
2 ~~board shall be selected for terms of two years. After the~~
3 ~~terms of the original members of the board, four of the~~
4 ~~members serving on the board shall be practicing and licensed~~
5 ~~embalmers in Alabama for the last 10 consecutive years~~
6 ~~immediately preceding their appointment and shall be licensed~~
7 ~~embalmers and funeral directors in this state under this~~
8 ~~chapter. Three of the members shall have been actively engaged~~
9 ~~in funeral directing in Alabama for the last 10 consecutive~~
10 ~~years preceding their appointment and shall be licensed~~
11 ~~funeral directors of this state, under this chapter, and, at~~
12 ~~the time of their appointment to the board, shall be operators~~
13 ~~of funeral establishments in this state. If the license of a~~
14 ~~member of the board as a funeral director or embalmer should~~
15 ~~be revoked or suspended, such member shall automatically, by~~
16 ~~reason of such revocation or suspension, become ineligible to~~
17 ~~serve as a member of the board, and a new member, properly~~
18 ~~qualified, shall be selected in the same manner provided for~~
19 ~~appointment to the board. Should a member fail to qualify~~
20 ~~after appointment, then he or she shall automatically become~~
21 ~~ineligible to serve as a member of the board, and a new~~
22 ~~member, properly qualified, shall be appointed and shall serve~~
23 ~~the remainder of the term of the member so terminated. Each~~
24 ~~member of the board shall remain an active practicing funeral~~
25 ~~director or embalmer and funeral establishment operator during~~

1 ~~his or her tenure of service on the board. Each member may~~
2 ~~serve not more than four consecutive two-year terms. In no~~
3 ~~event shall more than one member of the board reside in one~~
4 ~~district. At each meeting where nominations are made for~~
5 ~~members of the board, only one licensed funeral director or~~
6 ~~licensed embalmer of each establishment shall have the right~~
7 ~~to vote for nominees.~~

8 ~~"(e) Any board member who is elected to the~~
9 ~~International Conference of Funeral Service Examining Board,~~
10 ~~upon his or her election, shall begin to serve the state board~~
11 ~~in an ex officio capacity only, for the duration of his or her~~
12 ~~international conference board term. A member, properly~~
13 ~~qualified, shall be selected in the same manner provided for~~
14 ~~appointment to the state board and shall serve the remainder~~
15 ~~of the term of the member elected to the international~~
16 ~~conference board.~~

17 "(c) Commencing on January 1, 2019, as the terms of
18 the members serving on the board on the effective date of the
19 act adding this subsection expire, the membership of the board
20 shall be reconstituted to consist of seven professional
21 members and two consumer members.

22 "(1) Each professional member of the board shall be
23 a citizen of the United States, a resident of Alabama, and
24 licensed and in good standing with the board as an embalmer or
25 funeral director at the time of appointment and during the

1 entire term of office. Professional members of the board shall
2 be appointed by the Governor pursuant to subsection (e).

3 "a. Four of the professional members of the board
4 shall hold a current license from the board to practice
5 embalming in the state, shall have been actively practicing
6 embalming in the state for the last 10 consecutive years
7 immediately preceding appointment, and shall be engaged in the
8 practice of embalming at the time of appointment to the board.

9 "b. Three of the professional members of the board
10 shall hold a current license from the board to practice
11 funeral directing in the state, shall have been actively
12 engaged in funeral directing in the state for the last 10
13 consecutive years immediately preceding appointment, and shall
14 be the operator of a funeral establishment in this state at
15 the time of appointment to the board.

16 "(2) Each consumer member of the board shall
17 represent the public in general and shall have been a citizen
18 of the United States and a resident of Alabama for the last 10
19 consecutive years immediately preceding appointment and during
20 the entire term of office. A consumer member of the board may
21 not have held, nor currently hold, a license or certification
22 issued by the board, be employed at any time by, or
23 professionally or financially associated with, the holder of a
24 license or certificate issued by the board, or be related
25 within the third degree of consanguinity or affinity to the

1 holder of a license or certificate issued by the board. One
2 consumer member of the board shall be appointed by the
3 Lieutenant Governor and one consumer member shall be appointed
4 by the Speaker of the House of Representatives pursuant to a
5 procedure adopted by rule of the board.

6 "(d) Commencing in October of 2018, and each October
7 thereafter of a year where at least one professional member
8 term on the board has expired, or is vacant for any reason,
9 all licensed funeral directors and licensed embalmers shall
10 meet in Montgomery, at a time and place fixed by the board,
11 for the purpose of nominating and submitting the names of
12 three licensed persons for each position on the board to the
13 Governor. Not more than two nominees shall be members of the
14 same race. The Governor shall promptly appoint one of the
15 three persons so nominated to serve as a professional member
16 of the board.

17 "(e) (1) Professional and consumer members of the
18 board shall serve staggered terms of four years each to
19 provide continuity of service on the board. If an appointment
20 is not made before the expiration of a term, the board member
21 then serving may continue to serve until a successor has been
22 appointed. A board member may not serve more than two full
23 consecutive terms on the board.

24 "(2) A board member who is appointed to fill a
25 vacancy which occurs before the expiration of the term of the

1 vacating member shall serve the remaining portion of the term
2 to which the former member was appointed. If a member is
3 appointed to fill an unexpired term of less than two years,
4 the time may not be counted toward the maximum eight years of
5 service.

6 "(3) Not more than one professional member of the
7 board may reside in the same district as created by Section
8 34-13-21.

9 "(4) At each meeting where nominations are made for
10 the professional members of the board, only one licensed
11 funeral director or licensed embalmer employed by the same
12 funeral establishment may vote.

13 "(f) (1) In accordance with applicable law, in
14 addition to a board member resigning from the board in
15 writing, a board member may be removed from the board for any
16 of the following grounds:

17 "a. The refusal or inability to perform board duties
18 in an efficient, responsible, or professional manner.

19 "b. The misuse of his or her position on the board
20 to obtain financial gain or seek personal advantage for
21 himself, herself, or another person.

22 "c. A final adjudication or determination of guilt
23 by any lawful authority of the board member or sanction of the
24 board member for the violation of any law the board determines

1 is substantially related to any practice governed by this
2 chapter.

3 "d. The revocation or suspension of the license of a
4 professional member of the board.

5 "(2) Any board member who fails to qualify after
6 appointment shall automatically become ineligible to serve as
7 a member of the board and a new member, properly qualified,
8 shall be appointed in the same manner as the original
9 appointment and shall serve the remainder of the term of the
10 vacating board member.

11 "(3) If a consumer board member fails to attend two
12 or more meetings within a year, without a valid excuse as
13 determined by the board, he or she shall be removed from the
14 board. A new consumer board member shall be appointed in the
15 same manner as the original appointment and shall serve the
16 remainder of the term.

17 "§34-13-21.

18 "There are hereby created, for the purpose of this
19 chapter, seven geographical districts which shall be identical
20 with the seven congressional districts as fixed and
21 established by Section ~~17-20-1~~ 17-14-70, as may be amended. It
22 is the purpose and intention of this section to provide that
23 one professional member of the ~~Alabama Board of Funeral~~
24 ~~Service~~ board shall be selected from each district, which
25 ~~shall be geographically identical with the congressional~~

1 ~~districts,~~ and that three nominees to the Governor for
2 appointment to the board shall be made from each district. The
3 two consumer members of the board may not reside in the same
4 congressional district.

5 "§34-13-23.

6 "(a) (1) The board appointed under this chapter and
7 each successor thereto is authorized to select from its own
8 membership a chair and to adopt and promulgate such rules and
9 regulations for the transaction of its business and for the
10 betterment and promotion of the standards of service and
11 practice to be followed in the funeral service profession in
12 the State of Alabama as ~~it~~ the board may deem expedient and
13 consistent with the laws of this state and for the public
14 good.

15 "(2) The chair shall preside at all meetings of the
16 board unless otherwise ordered, and he or she shall exercise
17 and perform all duties and functions incident to the office of
18 chair.

19 "(3) The board may select also from its own
20 membership a vice chair, a secretary, and a treasurer. No two
21 offices shall be held by the same person. The chair and vice
22 chair may not be of the same race.

23 "(b) The treasurer shall give bond to the State of
24 Alabama in the sum of ten thousand dollars (\$10,000), and any
25 premium payable for the bond shall be paid from the funds of

1 the board. The bond shall be deposited with the Treasurer of
2 the State of Alabama.

3 "(c) Board members shall be reimbursed for their
4 necessary traveling expenses and the necessary expenses
5 incident to their attendance upon the business of the board,
6 and, in addition thereto, they shall receive the sum of fifty
7 dollars (\$50) per diem for every day not to exceed 20 days per
8 year actually spent by the member upon the business of the
9 board. The board may employ an executive ~~secretary~~ director
10 and associate executive ~~secretary~~ director who shall each
11 receive and be paid an annual salary to be fixed by the board,
12 but not to exceed the salary level established and paid to
13 cabinet officers in the state government. The salary shall be
14 paid on a ~~monthly~~ semimonthly basis. In addition, the
15 executive ~~secretary~~ director and associate executive ~~secretary~~
16 director shall receive his or her necessary traveling and
17 other incidental expenses as are incurred in the performance
18 of duties, and all expenses, per diem, and compensation shall
19 be paid out of the receipts of the board. At no time shall the
20 operation of the board be an expense to the state, and at no
21 time shall expenses of the board exceed the receipts of the
22 board.

23 "(d) The executive ~~secretary~~ director of the board
24 shall have complete supervision and be held responsible for
25 the direction of the office of the board, shall have

1 supervision over field inspection and enforcement of this
2 chapter, and shall be responsible and answerable to the board.
3 The associate executive ~~secretary~~ director shall assist the
4 executive ~~secretary~~ director and perform such other duties as
5 may be assigned to him or her by the board. The executive
6 ~~secretary~~ director and associate executive ~~secretary~~ director
7 shall not be of the same race.

8 "(e) The executive ~~secretary~~ director shall keep a
9 record in which shall be registered the name and business
10 address of every person to whom licenses have been granted in
11 accordance with this chapter, the number and date of the
12 license and the date of each renewal. Upon request to do so,
13 the executive ~~secretary~~ director shall supply each person
14 licensed for the practice of embalming and funeral directing
15 with a list of all persons and establishments holding a
16 license under this chapter, then in force, giving the names of
17 the persons, their business addresses, and the numbers of
18 their licenses.

19 "(f) It shall be the duty of the executive ~~secretary~~
20 director to prepare under the direction of the board and cause
21 to be printed all forms required by this chapter to be
22 prescribed by the board. All notices required to be mailed by
23 this chapter shall be directed to the last known post office
24 address of the party to whom the notice is sent.

1 "(g) The executive ~~secretary~~ director shall serve at
2 the pleasure of the board and shall perform duties as may be
3 necessary for the proper functioning of the board as the board
4 may determine or as may be prescribed in this chapter. During
5 the employment of the executive ~~secretary~~ director he or she
6 may not be employed by any funeral establishment.

7 "(h) All fees and fines received under this chapter
8 shall be paid into a special fund in the State Treasury to be
9 known as the Alabama State Funeral Directors and Embalmers
10 Fund, which is hereby created, for the necessary and proper
11 expenses of the board, and for a reasonable reserve for future
12 use by the board. All moneys in the fund are hereby
13 appropriated, as a continuing appropriation, to the ~~Alabama~~
14 ~~Board of Funeral Service~~ board to be used for carrying out
15 this chapter.

16 "(i) Each member of the board, the executive
17 ~~secretary~~ director, the associate executive ~~secretary~~
18 director, designated employees, and independent contractors of
19 the board appropriately identified are authorized at any given
20 time on complaint or for inspection purposes to enter the
21 office, premises, establishment, or place of business of any
22 funeral service licensee in the State of Alabama or any
23 office, premises, establishment, or place where the practice
24 of funeral service is carried on, or where the practice is
25 advertised as being carried on, for the purpose of inspecting

1 the office, premises, records, or establishment and for the
2 purpose of inspecting the license and registration of any
3 funeral service licensee and apprentice trainee operating
4 therein.

5 "(j) All members of the board or designated
6 employees of the board ~~are hereby authorized to~~ may serve and
7 execute any process issued by any court under this chapter and
8 to serve and execute any papers or process issued by the board
9 or any officer or member thereof under ~~authority of~~ this
10 chapter.

11 "(k) The board may employ clerical assistants and
12 employees or other help as ~~may be~~ necessary to carry out this
13 chapter, and the terms and conditions of employment shall be
14 determined by the board. The board may establish and equip an
15 office from which this chapter may be carried out.

16 "§34-13-25.

17 "All hearings provided for by this chapter shall be
18 ~~open to the public, and a report and record of proceedings of~~
19 ~~each hearing shall be made at the expense of the board. A copy~~
20 ~~of such report and record shall be furnished to any interested~~
21 ~~party, upon request and tender to the executive secretary of~~
22 ~~the board of the reasonable cost of preparation thereof~~
23 conducted pursuant to the Alabama Administrative Procedure
24 Act.

25 "§34-13-26.

1 "(a) The board ~~has the power to~~ shall adopt and
2 enforce for the protection of the public health, safety, and
3 welfare reasonable rules ~~and regulations~~ pursuant to the
4 Alabama Administrative Procedure Act.

5 "~~(b) The rules and regulations of the board shall~~
6 ~~not become effective until they have been published and~~
7 ~~discussed at a public hearing and have been filed in the~~
8 ~~office of the Secretary of State; and, when so filed, such~~
9 ~~rules and regulations shall be in full force and have the~~
10 ~~effect of law. The board shall mail notice of such hearing to~~
11 ~~each licensee under this chapter 15 days before the date of~~
12 ~~such hearing.~~

13 "~~(c) All rules and regulations adopted by the board~~
14 ~~shall be referenced to the section or sections of this chapter~~
15 ~~which set forth the legislative standard which it interprets~~
16 ~~or to which it applies. Every rule and regulation shall be in~~
17 ~~writing, promulgated by an order, state its effective date, be~~
18 ~~indexed in a permanent book which shall be a permanent record,~~
19 ~~and a true copy shall be filed in the office of the Secretary~~
20 ~~of State of Alabama. A copy of every order promulgating a~~
21 ~~rule, regulation, or other order containing a requirement of~~
22 ~~general application shall be provided to each licensee in~~
23 ~~electronic format and available on the website of the board.~~
24 ~~The failure of a licensee to receive a copy of the rule,~~
25 ~~regulation, or order shall not exempt or excuse him or her~~

1 ~~from the duty of compliance with the valid rules, regulations,~~
2 ~~or orders lawfully issued.~~

3 ~~"(d)~~ (b) The board ~~shall have power to~~ may hold
4 hearings, conduct investigations, subpoena witnesses, subpoena
5 documents, administer oaths, and take testimony in order to
6 carry out this chapter.

7 ~~"(e) A court of competent jurisdiction, upon~~
8 ~~application of the board, may restrain violations or refusals~~
9 ~~to comply with this chapter or the regulations of the board.~~

10 ~~"(f) Any person, including a member of the board,~~
11 ~~may initiate a complaint against a licensee of the board by~~
12 ~~filing with the board a written complaint on a form prescribed~~
13 ~~by the board.~~

14 ~~"(1) Upon receipt of a properly verified complaint,~~
15 ~~the board shall send a copy of the complaint to the affected~~
16 ~~licensee by certified mail to the address of such licensee~~
17 ~~appearing on record with the board. The licensee shall answer~~
18 ~~the complaint in writing within 20 days after receipt of the~~
19 ~~complaint. The licensee shall mail a copy of his or her~~
20 ~~response to the board and the complainant. Upon receipt of the~~
21 ~~response of the licensee or lapse of 20 days, the board may~~
22 ~~investigate a complaint that appears to show the existence of~~
23 ~~any of the causes or grounds for disciplinary action pursuant~~
24 ~~to this chapter. Upon finding reasonable cause to believe that~~
25 ~~the charges are not frivolous, unfounded, or filed in bad~~

1 ~~faith, the board may cause a hearing to be held, at a time and~~
2 ~~place fixed by the board, regarding the charges. If a hearing~~
3 ~~is held, the board shall order the licensee to appear and show~~
4 ~~cause why he or she should not be disciplined for a violation~~
5 ~~of this chapter.~~

6 ~~"(2) The board shall give the complainant and the~~
7 ~~affected licensee 20 days' notice of any hearing upon a~~
8 ~~complaint. Such notice shall be by United States certified~~
9 ~~mail.~~

10 ~~"(3) Any party appearing before the board may be~~
11 ~~accompanied by counsel.~~

12 ~~"(4) Before commencing a hearing, the chair or a~~
13 ~~designee of the board shall determine if all parties are~~
14 ~~present and ready to proceed. If the complainant does not~~
15 ~~attend a hearing and does not show good cause for his or her~~
16 ~~absence, the complaint shall be summarily dismissed and all~~
17 ~~fees and expenses relating to the convening of the hearing~~
18 ~~shall be charged to the complainant. If an affected licensee~~
19 ~~does not appear for a hearing and does not show good cause for~~
20 ~~his or her absence, the licensee shall be presumed to have~~
21 ~~waived his or her right to appear before the board and be~~
22 ~~heard.~~

23 ~~"(5) Upon a determination by the chair or designee~~
24 ~~that all parties are ready to proceed, the hearing shall be~~
25 ~~called to order. The complainant and the licensee may offer~~

~~opening statements and the board may order the sequestration of nonparty witnesses.~~

~~"(6) After opening statements, the complainant shall present his or her case and the licensee, any counsel, and any member or designee of the board may ask questions of complainant witnesses.~~

~~"(7) After the complainant has completed presenting his or her case, the licensee shall present his or her case and the complainant, any counsel, and any member or designee of the board may ask questions of licensee witnesses.~~

~~"(8) After both sides have completed their presentations, closing statements may be given by the complainant and the licensee.~~

~~"(9) At the conclusion of the hearing, the board may render an immediate decision or take the case under advisement for further deliberation. A decision of the board shall be rendered within 90 days after the hearing and a copy of that decision shall be mailed to the last known business or residence address of the complainant and the licensee.~~

~~"(g) The board may file a formal complaint against a licensee and may temporarily suspend a license simultaneously with the institution of proceedings under this section, without a hearing, if the board finds that the evidence supporting the determination is clear, competent, and~~

1 ~~unequivocal and that the continuation of the licensee to~~
2 ~~practice would constitute a danger to public health or safety.~~

3 "§34-13-29.

4 "All necessary expenses incurred in giving
5 examinations to applicants and incidental to the renewal of
6 licenses and all necessary expenses incurred in education and
7 enforcing ~~the provisions of~~ this chapter shall be audited by
8 the ~~Examiner~~ the Department of Examiners of Public Accounts
9 and paid from the funds provided for in this chapter in the
10 same manner as other claims against the state are paid after
11 due approval thereof by the ~~chairman~~ chair and executive
12 ~~secretary~~ director of the board.

13 "§34-13-31.

14 "(a) Whenever, by decision, final order, or other
15 final determination upon any public hearing provided for by
16 this chapter, a party to such hearing shall feel aggrieved, an
17 appeal may be taken to the ~~circuit court for the county within~~
18 ~~which such party resides or, if he or she is not a resident of~~
19 ~~Alabama, then to the circuit court for the county within which~~
20 ~~the hearing was held~~ Circuit Court of Montgomery County,
21 Alabama. However, ~~if there is more than one appellant, the~~
22 ~~circuit court having jurisdiction to hear the appeal of the~~
23 ~~first appellant filing a notice of appeal shall have~~
24 ~~jurisdiction to hear all appeals arising from the same~~

1 ~~hearing, irrespective of the place of residence of the~~
2 ~~appellants.~~

3 "(b) On taking and perfecting an appeal to the
4 ~~circuit court having jurisdiction thereof~~ Circuit Court of
5 Montgomery County, Alabama, the court shall proceed as in
6 other cases.

7 "(c) All appeals shall be taken within 30 days from
8 the date of the order entered of the board which is the basis
9 of the appeal and shall be granted as a matter of right and be
10 deemed perfected by filing with the board a bond for security
11 of costs of the appeal. Upon filing of a verified petition and
12 hearing thereon, the court ~~may~~, in its discretion, may stay
13 the order appealed from pending final judicial review. No new
14 or additional evidence may be introduced in the circuit court
15 except as to fraud or misconduct of some person engaged in the
16 administration of this chapter and affecting the order, rule,
17 or ruling appealed from. The court shall otherwise hear the
18 case upon the record as certified to the court by the
19 executive ~~secretary~~ director of the board and shall set aside
20 the order, rule, or action appealed from if the court finds
21 that the board erred to the prejudice of the appellant's
22 substantial rights in its application of the law; or, the
23 order, decision, or award was procured by fraud or was based
24 upon a finding of facts contrary to the substantial weight of
25 the evidence, or that the order was arbitrary, capricious, or

1 inconsistent with respect to any of the material issues
2 involved; or that the board failed in its order to find
3 sufficient facts as to each material issue involved to enable
4 the court to determine the basis for the conclusion of the
5 board. The court, instead of setting aside the order, shall
6 remand the case to the board for further proceedings in
7 conformity with the direction of the court. The court ~~may~~, in
8 advance of judgment and upon a sufficient showing, may remand
9 the cause to the board for the purpose of taking additional
10 testimony or other proceedings.

11 "(d) An appeal may be taken from the judgment decree
12 or any appealable order of the circuit court to the Supreme
13 Court of this state. Appeals to the Supreme Court shall be
14 taken, perfected, heard, and determined in the manner
15 prescribed by law and the Alabama Rules of Appellate Procedure
16 for taking, perfecting, hearing, and determining appeals to
17 the Supreme Court.

18 "§34-13-51.

19 "(a) The board ~~may, but shall not be required to,~~
20 recognize and issue, without examination and upon payment of a
21 fee not in excess of five hundred dollars (\$500) for each
22 license, a reciprocal license for the practice of funeral
23 directing or embalming to any person licensed as a funeral
24 director or embalmer by any state, if the board makes an
25 individual determination that the qualifications of the

1 applicant meet or exceed the minimum qualifications required
2 for funeral directors or embalmers in this state and that a
3 written examination of such applicant would be superfluous.

4 "(b) Applications shall be made on forms prescribed
5 and furnished by the board. An applicant holding a funeral
6 director or embalmer license from another state, and applying
7 for a funeral director or embalmer license in Alabama shall be
8 considered for licensing by reciprocity.

9 "(c) Commencing on October 1, 2017, in addition to
10 the requirements of subsections (a) and (b), an applicant for
11 a funeral director or embalmer license shall submit to the
12 board a form, sworn to by the applicant, that contains the
13 name, date of birth, and Social Security number of the
14 applicant, and two complete sets of fingerprints, for
15 completion of a criminal history background check. The board
16 shall submit the fingerprints to the Alabama State Law
17 Enforcement Agency for a state criminal history record check.
18 The fingerprints shall be forwarded by the agency to the
19 Federal Bureau of Investigation for a national criminal
20 history record check. Costs associated with conducting a
21 criminal history background check shall be paid by the
22 applicant. The board shall keep information received pursuant
23 to this subsection confidential, except that information
24 received and relied upon in denying the issuance of a funeral

1 director or embalmer license may be disclosed if necessary to
2 support the denial.

3 "~~(d)(c)~~ The board, at the time of the application,
4 shall make a reasonable determination that the applicant is a
5 legal resident of the United States or legally present in this
6 state. The board reserves the right to require applicants for
7 reciprocity to submit to a personal interview or a written
8 examination relating to the law as it pertains to the
9 regulation of the funeral service profession in Alabama.

10 "~~(e)(d)~~ The board shall issue a special work permit
11 to a qualified funeral director or embalmer when the board
12 determines that the applicant satisfies all requirements for
13 reciprocity and a fee, not exceeding one hundred dollars
14 (\$100), is received by the board. A special work permit shall
15 expire on the date of the next regular board meeting occurring
16 after issuance.

17 "§34-13-52.

18 "(a) Licenses under this chapter shall be granted to
19 individuals upon the qualification and successful examination
20 of the individual applicant and shall specify the name to whom
21 it is issued. A license, registration, or certificate granted
22 under this chapter shall be on public display.

23 "(b) A funeral establishment license issued under
24 this chapter shall include the name of the funeral
25 establishment, the name of the managing funeral director, the

1 name of the managing embalmer, and the certificate of
2 authority license number, if applicable. The license shall be
3 on public display.

4 "(c) Every license issued under this chapter shall
5 be signed by the chair and executive ~~secretary~~ director and
6 shall be displayed in the place of business or employment of
7 the licensee.

8 "(d) Any person engaged in the business, profession,
9 or practice of funeral directing shall do each of the
10 following:

11 "(1) Possess on his or her person, or be able to
12 promptly produce, a legible and current Alabama funeral
13 director's wallet license ~~certificate~~ when performing the
14 duties of a funeral director.

15 "(2) Upon the request of a board member, the
16 executive ~~secretary~~ director, the associate executive
17 ~~secretary~~ director, or a designated and appropriately
18 identified employee of the board, promptly produce his or her
19 legible and current Alabama funeral director wallet license
20 certificate.

21 "(e) Any person engaged in the business, profession,
22 or practice of embalming shall do each of the following:

23 "(1) Possess on his or her person, or be able to
24 promptly produce, a legible and current Alabama embalmer's

1 wallet license ~~certificate~~ when performing the duties of an
 2 embalmer.

3 "(2) Upon the request of a board member, the
 4 executive ~~secretary~~ director, the associate executive
 5 ~~secretary~~ director, or a designated and appropriately
 6 identified employee of the board, promptly produce his or her
 7 legible and current Alabama embalmer wallet license
 8 certificate.

9 "(f) Any person engaged in the business, profession,
 10 or practice of cremation shall do each of the following:

11 "(1) Possess on his or her person, or be able to
 12 promptly produce, a legible and current Alabama cremationist's
 13 wallet license when performing the duties of a cremationist.

14 "(2) Upon the request of a board member, the
 15 executive director, the associate executive director, or a
 16 designated and appropriately identified employee of the board,
 17 promptly produce his or her legible and current Alabama
 18 cremationist wallet license certificate.

19 "\$34-13-53.

20 "(a) (1) Before October 1, 2018, every ~~Every~~ licensed
 21 funeral director, ~~every~~ licensed embalmer, and ~~every~~ licensed
 22 operator shall pay annually a fee for renewal of his or her
 23 license. The renewal fees shall be set by the board at a rate
 24 not to exceed one hundred fifty dollars (\$150) for licensed

1 embalmers and funeral directors and five hundred dollars
2 (\$500) for licensed operators.

3 "(2) Commencing on October 1, 2018, every license or
4 registration issued by the board under this chapter shall be
5 renewed biennially upon submission by the licensee or
6 registrant of a renewal application and a renewal fee
7 established by board rule, not exceeding five hundred dollars
8 (\$500), for each licensed cremationist, embalmer, funeral
9 director, and funeral establishment.

10 "(b) All licenses granted under this chapter shall
11 expire on October 1, following their issuance or renewal, and
12 shall become invalid unless renewed as provided in this
13 section and other requirements of the board are met. In
14 addition to payment of a renewal fee, each licensee shall
15 satisfy continuing education requirements prescribed by rule
16 of the board pursuant to subsection (c). There shall be no
17 proration of licenses.

18 "(c) (1) Commencing in 2014, and for each licensing
19 period thereafter, the board may require persons seeking
20 renewal of ~~an~~ a cremationist, embalmer, or funeral director
21 license under this chapter to complete board approved
22 continuing education of not less than eight hours biennially.
23 The board may approve continuing education providers and
24 courses offered by institutions of higher learning, specialty

1 societies, associations, or professional organizations or by
2 other organizations the board deems appropriate.

3 "(2) Any person who holds an inactive license or who
4 is over the age of 65, with at least 10 years of experience in
5 the funeral service industry, is exempt from the continuing
6 education requirement.

7 "(3) An embalmer who is also a licensed funeral
8 director and who completes the continuing education
9 requirements for funeral directors is not required to complete
10 additional continuing education requirements.

11 "(4) Continuing education providers shall pay a
12 biennial administrative fee established by board rule, not
13 exceeding two hundred fifty dollars (\$250).

14 "(5)(4) The board may promulgate rules to implement
15 and ensure compliance with this section.

16 "(d) The board shall publish on or before August 1
17 of ~~each~~ the expiration year, in printed form, electronic
18 image, in an online publication, or on the website of the
19 board that is accessible to each licensed funeral director,
20 licensed embalmer, licensed cremationist, and licensed
21 ~~operator establishment~~, notice that his or her renewal fee is
22 due and payable and that, if such fee is not paid by ~~October 1~~
23 September 30 of that year, the license shall ~~lapse~~ expire.
24 Information regarding license renewal dates and fees shall be
25 available in electronic format on the website of the board.

1 "(e) At the time, or before, a licensee changes
2 place of employment, residence address, or makes any other
3 change in status which is of record at the board office, the
4 licensee shall report such change of status, by a method
5 prescribed by the board, to the executive ~~secretary~~ director.

6 "§34-13-54.

7 "No license to a cremationist, an embalmer, a
8 funeral director, or a funeral establishment granted under or
9 regulated by this chapter shall be transferable or assignable.

10 "§34-13-55.

11 "(a) When a licensee, for any reason, has allowed
12 ~~his or her~~ a license to ~~lapse~~ expire, the board may reinstate
13 the license if application for reinstatement is made within a
14 period of ~~six months~~ 30 days from the ~~lapse~~ date of expiration
15 and is accompanied by payment of all penalties and ~~lapsed~~
16 fees, from the time of ~~the lapse~~ expiration to date of
17 reinstatement. The penalties to be paid to the board shall not
18 exceed one hundred dollars (\$100) to reinstate licenses which
19 have ~~lapsed~~ expired.

20 "(b) After the ~~six-month~~ 30-day period has elapsed,
21 ~~such~~ a license may be reinstated only by complying with the
22 provisions of this chapter relating to the issuance of an
23 original license in addition to payment of all ~~lapsed~~ fees and
24 penalties.

25 "§34-13-56.

1 "(a) The board may refuse to license any person or
2 establishment for violation of this chapter. If the board
3 refuses to issue, grant, or renew a license based on a
4 violation of this chapter, including, but not limited to,
5 violations listed in subsection (c), the licensee or
6 prospective licensee may request a public hearing before the
7 board to appeal the action of the board. The request for a
8 public hearing shall be submitted to the board in writing
9 within 14 calendar days after the date of the refusal. Upon
10 request, the board shall provide the licensee or prospective
11 licensee with 20 days' notice of the public hearing by United
12 States certified mail. The public hearing shall be conducted
13 pursuant to Section 34-13-26.

14 "(b) A public hearing conducted pursuant to Section
15 34-13-26 shall be provided by the board to any licensee for
16 whom the board is considering the probation, suspension, or
17 revocation of a license, excluding a temporary suspension
18 issued by the board pursuant to subsection (g) of Section
19 34-13-26.

20 "(c) ~~(a)~~ The board may ~~refuse to grant, refuse to~~
21 ~~renew, or suspend, or revoke, or place on probation~~ a license
22 ~~after proper hearing and notice to~~ if the licensee, upon the
23 ~~licensee's being~~ is found guilty of any of the following:

1 "(1) Conviction of a crime involving moral turpitude
2 including, but not limited to, any crime where the individual
3 has to register as a sex offender in any jurisdiction.

4 "(2) Unprofessional conduct, which is defined to
5 include any of the following:

6 "a. Misrepresentation or fraud in the conduct of the
7 business or the profession of a funeral director or embalmer.

8 "b. False or misleading advertising as a funeral
9 director or embalmer or knowingly engaging in any advertising
10 which is misleading or inaccurate in any material particular.

11 "c. Solicitation of dead human bodies by the
12 licensee, his or her agents, assistants, or employees, from
13 medical professionals or clergy, whether the solicitation
14 occurs after death or while death is impending.

15 "d. Solicitation of dead human bodies by the
16 licensee, his or her agents, assistants, or employees whether
17 the solicitation occurs after death or while death is
18 impending.

19 "e. Employment by the licensee of a person or
20 persons to be used for the purpose of obtaining or soliciting
21 funeral directing or embalming business.

22 "f. Employment directly or indirectly of any
23 apprentice, agent, assistant, embalmer, employee, or other
24 person, on part or full time or on commission, for the purpose
25 of calling upon individuals or institutions where a death has

1 occurred or is imminent by whose influence dead human bodies
2 may be turned over to a particular funeral director or
3 embalmer or funeral establishment, or both.

4 "g. The buying of business by the licensee, his or
5 her agents, assistants, or employees.

6 "h. Gross immorality.

7 "i. Aiding or abetting an unlicensed person,
8 establishment, or entity in the to practice of funeral
9 directing or, embalming, cremation, or conducting business as
10 a funeral establishment or crematory.

11 "j. Using profane, indecent, or obscene language in
12 the presence of a dead human body, or within the immediate
13 hearing of the family or relative of a deceased whose body has
14 not yet been interred or otherwise disposed of.

15 "k. Solicitation or acceptance by a licensee of any
16 commission or bonus or rebate in consideration of recommending
17 or causing a dead human body to be disposed of in any
18 mausoleum or cemetery.

19 "l. Any violation of this chapter or order or rule
20 of the board.

21 "m. Any violation of state law or municipal or
22 county ordinance or regulation affecting the handling,
23 custody, care, or transportation of dead human bodies.

24 "n. Fraud or misrepresentation in obtaining a
25 license.

1 "o. Refusing to promptly surrender the custody of a
2 dead human body, upon the express order and payment for
3 services rendered of the person lawfully entitled to the
4 custody thereof.

5 "p. Performing services in a professional capacity
6 as a funeral director or embalmer, or both, for any unlicensed
7 funeral establishment operating in violation of this chapter.

8 "q. Being intoxicated or under the influence of
9 illegal drugs while on duty at a funeral establishment or
10 while performing any duty or responsibility for the funeral
11 establishment.

12 "r. Willfully retaining or willfully failing to
13 account for any property of a decedent.

14 "s. Knowingly and willfully signing ~~a certificate or~~
15 ~~other~~ any documentation as having embalmed or prepared a body
16 for burial when, in fact, the services were not performed by
17 the licensee.

18 "t. Failure to give full cooperation to the board or
19 its designees, agents, or other representatives in the
20 performance of official duties of the board.

21 "u. Not furnishing any relevant papers or documents
22 requested by or for the board.

23 "v. Not furnishing, in writing, an adequate
24 explanation relating to a matter contained in a complaint
25 filed with the board against the licensee.

1 "w. Not responding to a subpoena issued by the
2 board, without good cause shown, whether or not the licensee
3 is the party charged in any preceding before the board.

4 "x. Not providing reasonable access to the board or
5 an authorized agent or representative of the board for the
6 performance of reviews or inspections at facilities or places
7 utilized by the licensee in the practice of funeral service or
8 funeral directing or in performing any other activity
9 regulated by the board.

10 "y. Failing to provide information within a specific
11 time as required by the board or an authorized agent or
12 representative of the board.

13 "z. Failing to cooperate with the board or an
14 authorized agent or representative of the board in the
15 investigation of any alleged misconduct or interfering with a
16 board investigation through the willful misrepresentation of
17 facts.

18 "aa. Deceiving or attempting to deceive the board
19 regarding any matter under investigation, including the
20 altering or destroying of any records.

21 "bb. Failure, without good cause, to cooperate with
22 any request from the board to appear before the board.

23 "cc. Violating any statute, ordinance, or rule of
24 the state or any board, agency, or political subdivision of
25 the state affecting the registration of deaths, the handling,

1 custody, care, or transportation of dead human bodies, or the
2 sale of funeral services or funeral merchandise.

3 "dd. Demonstrating bad faith, incompetence, or
4 untrustworthiness or dishonest, fraudulent, or improper
5 dealing or any other violation of this chapter or any rule
6 promulgated by the board or promulgated by the Federal Trade
7 Commission relative to the practice of funeral service or
8 funeral directing.

9 "ee. Any other reason as determined by the board
10 that would render an individual unsuitable for licensure or
11 certification by the board.

12 "ff. A funeral home or funeral director accepting
13 funds for a preneed funeral contract or other prepayment of
14 funeral expenses without a certificate of authority to sell
15 preneed funeral contracts or, if registered to sell preneed
16 funeral contracts, failing to deposit the funds with a
17 qualified trustee or to timely remit premium payments from the
18 consumer to the insurer.

19 "gg. Using any funeral merchandise previously sold
20 without prior written permission of the person selecting or
21 paying for the use of the merchandise. A previously used
22 casket shell may be used for the viewing of remains if a new
23 interior or interior insert is installed before each usage of
24 the casket shell.

1 "(d) ~~(b)~~ In addition to the disciplinary actions
2 authorized in subsection ~~(a)~~ (c), the board may levy and
3 collect administrative fines for violations of this chapter or
4 the rules or regulations of the board in an amount not less
5 than five hundred dollars (\$500) nor more than two thousand
6 five hundred dollars (\$2,500) for each violation, unless
7 otherwise provided for in this chapter or by rule of the
8 board.

9 "§34-13-57.

10 "Fifteen days before an examination, the executive
11 ~~secretary of the board~~ director shall provide to all
12 applicants and all funeral establishments in the state, in
13 electronic format and on the website of the board, a notice
14 listing the names of all persons admitted by the board to take
15 the examination and setting out the time and place of the
16 examination.

17 "§34-13-70.

18 "(a) No person shall engage in, or attempt to engage
19 in, the practice or profession or business of a funeral
20 director unless licensed to do so by the ~~Alabama Board of~~
21 ~~Funeral Service~~ board. The board ~~hereby is granted authority~~
22 ~~to may~~ issue license licenses to funeral directors.

23 "(b) Any person desiring to engage in the business,
24 profession, or practice of funeral director shall make
25 application to the board and shall accompany his or her

1 application by a fee to be established by the board, not to
2 exceed ~~one~~ five hundred ~~fifty~~ dollars ~~(\$150)~~ (\$500).

3 "(c) Commencing on October 1, 2017, in addition to
4 the requirements of subsection (b), an applicant for a funeral
5 director license shall submit to the board a form, sworn to by
6 the applicant, that contains the name, date of birth, and
7 Social Security number of the applicant, and two complete sets
8 of fingerprints, for completion of a criminal history
9 background check. The board shall submit the fingerprints to
10 the Alabama State Law Enforcement Agency for a state criminal
11 history record check. The fingerprints shall be forwarded by
12 the agency to the Federal Bureau of Investigation for a
13 national criminal history record check. Costs associated with
14 conducting a criminal history background check shall be paid
15 by the applicant. The board shall keep information received
16 pursuant to this subsection confidential, except that
17 information received and relied upon in denying the issuance
18 of a funeral director license may be disclosed if necessary to
19 support the denial.

20 "§34-13-71.

21 "An application for a license as a funeral director
22 shall be in writing and verified on a form provided by and
23 addressed to the board and filed with the ~~secretary of the~~
24 ~~board~~ executive director. The application ~~must~~ shall specify
25 the address of the applicant and ~~must~~ shall be accompanied by

1 the affidavits of at least two licensed embalmers or funeral
2 directors to the effect that the applicant is of good
3 character and has qualified himself or herself to become
4 licensed as prescribed by this chapter. The board may require
5 an applicant for license as a funeral director to submit to a
6 personal interview.

7 "§34-13-74.

8 "(a) When a licensed funeral director dies leaving a
9 licensed funeral business with no licensed funeral director,
10 the surviving spouse, or a surviving child of legal age, ~~shall~~
11 ~~have the right to~~ may make application for examination as a
12 funeral director. The application shall be in writing, on a
13 form prescribed by the board, and shall state the facts
14 pertaining to the case. The board may certify the applicant
15 for the examination prescribed for funeral directors, in which
16 event the requirements with respect to prior experience and
17 apprenticeship shall be waived.

18 "(b) When a licensed funeral director dies leaving a
19 licensed funeral business with no licensed funeral director,
20 the board may issue a special operating permit to the operator
21 of ~~such~~ the licensed funeral business for a period of up to 12
22 months, with the board having the right to extend the permit
23 an additional reasonable time to afford ~~such~~ the operator the
24 opportunity of obtaining a licensed funeral director for ~~such~~
25 the business. The operator shall ~~be required to~~ pay a fee for

1 the issuance of the special operating permit in an amount not
2 exceeding one hundred dollars (\$100).

3 "(c) All human remains embalmed for a funeral
4 establishment operating under a special operating permit and
5 all funeral directing operations carried on under the permit
6 shall be in conformance with all the requirements of this
7 chapter which are not in conflict with this section.

8 "§34-13-91.

9 "(a) The applicant for an embalmer's license shall
10 make application to the board. The application ~~must~~ shall be
11 in writing and verified on a form provided by and addressed to
12 the board and ~~must~~ shall be accompanied by the prescribed fee
13 and by affidavits of at least two licensed embalmers to the
14 effect that the applicant is of good moral character and has
15 met all qualifications required for examination for license as
16 prescribed by this chapter. The board may require an applicant
17 for an embalmer's license to submit to a personal interview.

18 "(b) Commencing on October 1, 2017, in addition to
19 the requirements of subsection (a), an applicant for an
20 embalmer license shall submit to the board a form, sworn to by
21 the applicant, that contains the name, date of birth, and
22 Social Security number of the applicant, and two complete sets
23 of fingerprints, for completion of a criminal history
24 background check. The board shall submit the fingerprints to
25 the Alabama State Law Enforcement Agency for a state criminal

1 history record check. The fingerprints shall be forwarded by
2 the agency to the Federal Bureau of Investigation for a
3 national criminal history record check. Costs associated with
4 conducting a criminal history background check shall be paid
5 by the applicant. The board shall keep information received
6 pursuant to this subsection confidential, except that
7 information received and relied upon in denying the issuance
8 of an embalmer license may be disclosed if necessary to
9 support the denial.

10 "§34-13-110.

11 "(a) Any person, corporation, partnership, society
12 or group owning or operating a funeral establishment coming
13 within ~~the provisions of~~ this chapter may do so only through
14 the services of a licensed funeral director or embalmer. No
15 person not licensed as a funeral director or embalmer shall be
16 permitted to perform the functions of a funeral director or
17 embalmer as herein defined or hold himself or herself out to
18 the public as such by reason of his or her ownership in a
19 funeral establishment or by reason of his or her ownership of
20 stock owned in or office held in a corporation to own or
21 operate a funeral establishment. After September 10, 1975, no
22 firm or corporation authorized to own and operate a funeral
23 establishment may change or amend its name or charter so as to
24 include in its firm or corporate name the name of any person
25 who is not individually licensed as a funeral director in this

1 state; provided, that ~~the provisions of~~ this sentence shall
2 not be applicable to the name of any firm or corporation
3 owning or operating a funeral establishment on September 10,
4 1975, so long as such firm or corporation remains under the
5 same ownership.

6 "(b) If the business card of a funeral establishment
7 contains the name of an individual, the individual shall be
8 licensed by the board in accordance with this chapter, unless
9 otherwise provided by this chapter or board rule.

10 "(c) (1) Any funeral establishment advertising
11 cremation or cremation services that does not own a crematory
12 shall include the following disclaimer in a clear and
13 conspicuous manner on all advertisements and printed material:
14 "This establishment does not own a crematory."

15 "(2) For the purposes of this subsection, an
16 advertisement shall include, but is not limited to, a notice
17 or announcement in a public medium, including the Internet,
18 promoting the funeral establishment and any printed material
19 containing the name of the funeral establishment.

20 "§34-13-111.

21 "(a) No funeral establishment or branch thereof for
22 the preparation, disposition, and care of dead human bodies
23 shall be opened or maintained unless ~~duly~~ licensed by the
24 board. No funeral establishment or branch shall be moved

1 without obtaining a new funeral establishment license from the
2 board.

3 "(b) Every funeral service, memorial service, or
4 ~~interment~~ committal service, or part thereof, that is
5 conducted in Alabama, for hire or for profit, shall be in the
6 actual charge and shall be under the direct supervision of a
7 funeral director who is licensed by the board, unless
8 otherwise provided for in this chapter or by rule of the
9 board.

10 "(c) The board shall set a fee, not exceeding one
11 hundred fifty dollars (\$150), that shall be in addition to the
12 license fee for the first inspection of any funeral
13 establishment seeking a license under Section 34-13-72 made
14 for the purpose of determining whether ~~such~~ the funeral
15 establishment has fulfilled the requirements for licensure
16 pursuant to this chapter. The board shall set a fee, not
17 exceeding one hundred fifty dollars (\$150), for each
18 reinspection necessitated by failure of any funeral
19 establishment to pass ~~such~~ the first inspection. The board, or
20 a representative of the board, shall annually conduct ~~a~~
21 ~~minimum of~~ at least one unannounced inspection of each funeral
22 ~~establishments~~ establishment and ~~branches~~ branch, with an
23 inspection fee of not more than one hundred dollars (\$100).
24 The inspection fee shall be submitted to the board within 45
25 days after the inspection. Any funeral establishment that does

1 not submit the inspection fee within 45 days shall be charged
2 a late penalty fee, as established by the board. A funeral
3 establishment, or branch thereof, that is used for the
4 preparation, disposition, and care of dead human bodies shall
5 meet and conform to this chapter and to such other lawful
6 standards and requirements as may be determined by rule of the
7 board in furtherance of this chapter; and, for failure to do
8 so, the board may revoke ~~such~~ the funeral establishment
9 license in accordance with the procedure set forth in this
10 chapter.

11 "(d) Applications for transfer of a license to
12 another location in the same county shall be made upon a form
13 furnished by the board and shall be accompanied by a fee of
14 not more than seventy-five dollars (\$75).

15 "(e) Any change in ownership of a funeral
16 establishment shall be immediately reported to the board on a
17 form provided by the board. The new owner of the establishment
18 shall comply with Section 34-13-112 and Section 34-13-113 and
19 shall provide to the board a signed copy of the asset purchase
20 agreement with dollar amounts redacted. The fee for a change
21 of ownership application is two hundred fifty dollars (\$250).

22 "§34-13-112.

23 "(a) All applications for a license to operate a
24 funeral establishment shall show that a managing funeral
25 director and managing embalmer are employed by the

1 establishment. All applications for a license to operate a
2 crematory shall show that a managing cremationist is employed
3 by the establishment. No application for a license of a
4 funeral establishment shall be considered which does not show
5 on the application that a licensed funeral director and
6 licensed embalmer are employed by the establishment. This
7 section shall not be construed to require a full-time licensed
8 embalmer at each funeral establishment. No funeral
9 establishment shall be licensed except upon the basis of a
10 licensed employing a managing funeral director who lives
11 within 75 miles of the funeral establishment. All embalming
12 must shall be performed under a licensed embalmer, but such. A
13 licensed embalmer shall is not be restricted from working for
14 more than one funeral establishment.

15 " (b) No licensed managing funeral director, based
16 upon whose license or licenses a funeral establishment license
17 has been issued, may serve as the regularly employed licensed
18 managing funeral director at another funeral establishment
19 which is owned by a different person, firm, or corporation at
20 the same time for the purpose of qualifying such the other
21 establishment under this chapter.

22 " (c) It is hereby declared to be the legislative
23 intent of this chapter that every funeral establishment in
24 this state shall be operated under the full charge, control,
25 and supervision of an individually licensed a managing funeral

1 ~~director or a person licensed both as a funeral director and~~
2 ~~as an and a managing embalmer; provided, that this. This~~
3 section shall not preclude an unlicensed person from being in
4 charge of the bookkeeping or records of such an establishment.
5 The name of the licensed person to be in charge of each
6 funeral establishment shall be stated on the application for
7 all licenses or renewal of ~~such~~ the licenses.

8 "(d) The issuance of a license to operate a funeral
9 establishment to a person who is not individually licensed as
10 a funeral director or embalmer does not entitle the person to
11 practice embalming or funeral directing, as defined by this
12 chapter, it being the intent of this chapter that such
13 practice may be performed only through individually licensed
14 funeral directors and embalmers; and, in addition to all other
15 grounds for suspension of a funeral establishment license as
16 enumerated in this chapter, a funeral establishment license
17 shall be revoked by the board upon hearing thereon if any
18 person, whether owner, officer, stockholder, or otherwise, who
19 is connected with the funeral home shall perform any of the
20 functions of a funeral director or embalmer as defined herein
21 or shall hold himself or herself out as a funeral director.

22 "§34-13-113.

23 "(a) Application for a license to operate a funeral
24 establishment shall be made in writing on a form provided by
25 the board. The application shall be verified by the applicant

1 or, if the applicant is a corporation, firm, or other
2 organization, by an officer or member thereof, and shall be
3 accompanied by an application fee established by the board not
4 to exceed five hundred dollars (\$500). The application shall
5 disclose all of the following:

6 "(1) The name and address of the establishment.

7 "(2) That the establishment is operated by a
8 ~~licensed~~ managing funeral director and a ~~licensed~~ managing
9 embalmer or a person licensed both as a funeral director and
10 embalmer.

11 "(3) A description and photographs of the buildings,
12 equipment, and facilities of the establishment.

13 "(4) That the establishment has a sanitary, properly
14 equipped embalming room, a room suitable for public viewing or
15 other funeral services that is able to accommodate a minimum
16 of 100 people, an office for arrangement conferences with
17 relatives or authorized representatives, and a display room
18 containing a stock of adult caskets and funeral supplies
19 displayed in full size, cuts, photographs, or electronic
20 images. At no time shall less than eight different adult full
21 size caskets and at least one operating and properly licensed
22 funeral coach or hearse equipped for transporting human
23 remains in a casket or urn be on the premises. A funeral
24 establishment, that has more than one location under the same
25 ownership wherein the profession of funeral directing is

1 practiced, is not required to maintain more than one
2 preparation room upon satisfying requirements prescribed by
3 the board.

4 "(5) Such other information as may be required by
5 the board.

6 "(b) Upon receipt of the application, the board
7 shall make inspection of the funeral establishment. If the
8 board determines that the establishment meets the
9 qualifications prescribed by law, it shall issue a license to
10 operate a funeral establishment.

11 "(c) Application for a license to operate a mortuary
12 service shall be made in writing on a form provided by the
13 board. The application shall be verified by the applicant or,
14 if the applicant is a corporation, firm, or other
15 organization, by an officer or member thereof, and shall be
16 accompanied by an application fee established by the board not
17 to exceed five hundred dollars (\$500). The application shall
18 disclose all of the following:

19 "(1) The name and address of the proposed mortuary
20 service.

21 "(2) That the mortuary service applicant is operated
22 by a licensed embalmer or a person licensed both as a funeral
23 director and embalmer.

24 "(3) A description and photographs of the buildings,
25 equipment, and facilities of the mortuary service applicant.

1 "(4) That the mortuary service applicant has a
2 sanitary, properly equipped embalming room.

3 "(5) Such other information as may be required by
4 the board.

5 "(d) Upon receipt of the application, the board
6 shall make inspection of the premises of the mortuary service
7 applicant. If the board determines that the mortuary service
8 applicant meets the qualifications prescribed by law, ~~it~~ the
9 board shall issue a license to operate a mortuary service.

10 "§34-13-115.

11 "(a) The board may revoke, suspend, place on
12 probation, or refuse to renew a license issued to an operator
13 of a funeral establishment or mortuary service as provided in
14 this chapter.

15 "(b) If, upon a complaint made to ~~it~~ the board or
16 otherwise, the board has reason to believe that the operator
17 of a funeral establishment or mortuary service has failed to
18 comply with this chapter or the ~~regulations~~ rules of the
19 board, ~~it~~ the board shall conduct an investigation. If it
20 appears to the board that there is reasonable ground to
21 believe that the operator has failed so to comply, ~~it~~ the
22 board shall conduct a hearing on the matter. Notice of the
23 time and place of the hearing, setting forth the respects in
24 which failure to comply is charged, shall be sent to the
25 operator no later than 15 days prior to the date set for the

1 hearing. The operator may have the assistance of counsel at
2 the hearing.

3 "(c) ~~If, upon the hearing,~~ the board finds that the
4 operator has failed to comply with this chapter or the
5 ~~regulations~~ rule of the board, ~~it the board~~ may revoke,
6 suspend, or refuse to renew the license.

7 "\$34-13-116.

8 "Any person, firm, partnership, society, group, or
9 corporation who has control of a funeral home, mortuary,
10 chapel, funeral establishment, crematory, or mortuary service
11 and fails to register same according to this chapter, upon
12 conviction, may be fined not less than five hundred dollars
13 (\$500) nor more than two thousand five hundred dollars
14 (\$2,500) for each violation, and each day that the funeral
15 home, mortuary, chapel, funeral establishment, crematory, or
16 mortuary service is operated shall be deemed to be a separate
17 and distinct violation of this chapter.

18 "\$.

19 "(a) ~~it shall be unlawful for any~~ No person, firm,
20 corporation, association, or entity, or funeral establishment,
21 or branch thereof, may to operate a crematory or practice
22 cremation without for the purpose of cremating dead human
23 bodies, unless licensed by the board as a funeral
24 establishment and the crematory being licensed as a funeral
25 establishment in accordance with this chapter registered with

1 the board and inspected by the board before any cremations of
2 human remains are performed.

3 ~~"(b) Any funeral establishment performing cremation~~
4 ~~services shall certify by affidavit to the board that any~~
5 ~~cremationist conducting cremations has received adequate and~~
6 ~~appropriate training or experience in the practice of~~
7 ~~cremation. A crematory shall satisfy all of the following~~
8 ~~requirements and have the following minimum equipment,~~
9 ~~facilities, and personnel:~~

10 "(1) Registered with the board.

11 "(2) Inspected by the board before performing any
12 cremations.

13 "(3) Fixed on the premises of a funeral
14 establishment. For the purposes of this subdivision, fixed
15 means permanently attached to the real property where the
16 establishment is situated.

17 "(4) Owned by the same individual, partnership, or
18 corporation as the funeral establishment.

19 "(5) Under the full charge and supervision of a
20 managing cremationist who is licensed by the board as both a
21 funeral director and cremationist and listed on the
22 application as the managing cremationist. No managing
23 cremationist may serve as the regularly employed managing
24 cremationist at another crematory which is owned by a
25 different person, firm, or corporation at the same time for

1 the purpose of qualifying the other crematory under this
2 chapter.

3 "(6) Subject to all local, state, and federal health
4 and environmental protection requirements and shall obtain all
5 necessary licenses and permits from the board, the Alabama
6 Department of Public Health, the Environmental Protection
7 Agency, the Alabama Department of Environmental Management,
8 and other appropriate local, state, or federal agencies.

9 "(7) Have a holding room within the crematory
10 facility designated for the retention of human remains before
11 and after cremation.

12 "(8) Have at least one of each of the following:

13 "a. An operable refrigeration unit for the storage
14 of human remains.

15 "b. An operable cremation chamber for the cremation
16 of human remains.

17 "c. An operable processor for reducing identifiable
18 bone fragments.

19 "d. An operable ventilation unit in conjunction with
20 the processor.

21 "e. A hand washing sink with hot and cold running
22 water.

23 "(9) Have all other necessary equipment and
24 supplies, in working condition, needed to complete the
25 cremation process.

1 "(10) Have nonporous floors in the holding room,
2 refrigeration unit, and around the cremation chamber.

3 "(11) Maintained in a clean, orderly, and sanitary
4 manner.

5 ~~"(c) The board shall adopt and enforce rules and~~
6 ~~regulations as may be reasonable and necessary for the~~
7 ~~operation of crematories to protect the health, welfare, and~~
8 ~~safety of the people of this state. The application to operate~~
9 ~~a crematory shall be made in writing on a form prescribed by~~
10 ~~the board. The application shall be verified by the applicant~~
11 ~~or, if the applicant is a corporation, firm, or other~~
12 ~~organization, by an officer or member thereof, and shall be~~
13 ~~accompanied by an initial application fee established by the~~
14 ~~board not to exceed five hundred dollars (\$500).~~

15 "(d) Upon receipt of the application, the board
16 shall make inspection of the crematory. No crematory shall
17 operate unless the crematory facility and funeral
18 establishment have been inspected and approved as meeting all
19 requirements of this chapter and rules of the board.

20 "(e) Each funeral establishment and crematory which
21 performs cremations shall maintain the following records:

22 "(1) A cremation log containing any information
23 required by the board.

24 "(2) A copy of the cremation authorization form and
25 the state identification form.

1 "(3) A copy of the affidavit attesting to each
2 cremation performed and, if the cremation is performed for
3 another funeral establishment or entity, the identity of that
4 funeral establishment or entity.

5 "(e) (d) The board shall inspect the records and
6 premises of any funeral establishment operating a crematory.
7 In making inspections, the board shall have access to all
8 records, the crematory building, the cremation chambers ~~or~~
9 ~~furnaces~~, and the ~~storage areas~~ holding room for human remains
10 before and after cremation, ~~during regular office hours or the~~
11 ~~hours the crematory is in operation~~. No prior notification of
12 the inspection is required to be given to the funeral
13 establishment. If any funeral establishment performing
14 cremation services fails to allow an inspection or any part
15 thereof, it shall be grounds for the suspension or revocation
16 of a license or other disciplinary action against the
17 licensee, as the board may deem reasonable and necessary to
18 the extent of the law. The board shall conduct annually ~~a~~
19 ~~minimum of~~ at least one unannounced inspection of each
20 licensed funeral establishment performing cremation services.

21 "(f) (e) Each funeral establishment performing
22 cremation services shall keep records as required by the board
23 to assure compliance with all laws relating to the disposition
24 of human remains, and shall file annually with the board on
25 October 1 a cremation report in the form prescribed by the

1 board, describing the operations of the licensee, including
2 the number of cremations ~~made~~, the disposition thereof, and
3 any other information ~~as the board may, from time to time,~~
4 require. Records required by the board shall be kept for four
5 years by the funeral establishment.

6 "(g)(f) Each funeral establishment performing
7 ~~cremation services~~ cremations shall ~~report~~ maintain and submit
8 a copy of the service, maintenance, or inspection reports of
9 work completed or performed on the cremation chamber to the
10 board ~~any maintenance or inspections performed within 30 days~~
11 ~~of the maintenance or inspection~~ after completion.

12 "(h)(g) A funeral establishment ~~performing cremation~~
13 ~~services shall be subject to all local, state, and federal~~
14 ~~health and environmental protection requirements and shall~~
15 ~~obtain all necessary licenses and permits from the Alabama~~
16 ~~Board of Funeral Service, the federal and state Departments of~~
17 ~~Health and Human Services, and the state and federal~~
18 ~~Environmental Protection Agencies, or other appropriate local,~~
19 ~~state, or federal agencies, or branch thereof, that has a~~
20 crematory for cremating dead human remains shall at all times
21 comply with this chapter and any board rule adopted pursuant
22 to this chapter. Failure to comply, as determined by the
23 board, may result in the revocation of the license of the
24 funeral establishment, or branch thereof, pursuant to this
25 chapter.

1 "(i) The board shall adopt and enforce rules as
2 reasonable and necessary for the operation of crematories in
3 the state and to protect the health, welfare, and safety of
4 the people of this state.

5 "(j) A ~~(h) No~~ crematory facility licensed by the
6 board may be used only for the cremation of ~~deceased animals~~
7 human remains.

8 "(k) A funeral establishment or crematory operating
9 in the state before October 1, 2017, shall file with the board
10 all new forms as required by this section, and shall be exempt
11 from any new crematory facility requirements of this chapter
12 that become effective on the effective date of the act adding
13 this subsection. If major structural renovations are made to
14 the crematory facility, the cremation chamber is relocated, or
15 the funeral establishment is closed and reopened, the affected
16 crematory facility shall satisfy all requirements relating to
17 crematory facilities as provided in this chapter. Each
18 cremationist licensed by the board on the effective date of
19 the act adding this subsection shall have until October 1,
20 2018, to satisfy the requirements of Section 34-13-120.01.

21 "§34-13-121.

22 "(a) Human remains shall not be cremated under
23 either of the following circumstances:

24 "(1) Within ~~within~~ 24 hours after the time of death,
25 unless death was a result of an infectious, contagious, or

1 communicable disease and unless the disease is verified and
2 the time requirement waived by a medical examiner, county
3 health director, county coroner, or attending physician where
4 the death occurred.

5 "(2) Without a completed ~~(b) A~~ cremation
6 authorization form ~~prescribed~~ approved by the board ~~shall be~~
7 ~~and~~ signed by the authorizing agent and ~~must accompany any~~
8 ~~request for cremation~~ a completed state identification form. A
9 copy of the cremation authorization shall be presented with
10 the body to the crematory before any cremation process may be
11 initiated.

12 "(b) All cremations of human remains performed in
13 this state shall be arranged through a funeral establishment
14 licensed by the board pursuant to this chapter.

15 "(c) Whenever a crematory is unable or unauthorized
16 to cremate human remains immediately upon taking custody of
17 the remains, the human remains shall be placed and kept in
18 refrigeration in accordance with this chapter.

19 "(d) A crematory may not accept human remains from
20 another funeral establishment without all of the following:

21 "(1) The remains shall be accompanied by a completed
22 cremation authorization form signed by an authorizing agent.

23 "(2) A state identification form with the signature
24 of the releasing party.

1 "(3) An undetachable ankle bracelet identifying the
2 remains.

3 "(4) The remains shall be delivered or immediately
4 placed in a combustible cremation container marked with
5 identifying information of the human remains contained within.
6 Human remains may not be removed from the cremation container
7 and the cremation container shall be cremated with the human
8 remains, unless the cremation container is metal and the
9 authorizing agent has been informed in writing that the
10 crematory does not cremate metal containers.

11 "(e) A cremation container shall be all of the
12 following:

13 "a. Composed of readily combustible materials
14 suitable for cremation.

15 "b. Able to be closed in order to provide a complete
16 covering for the human remains.

17 "c. Resistant to leakage or spillage.

18 "d. Rigid enough for handling with ease.

19 "e. Able to provide protection for the health,
20 safety, and personal integrity of crematory personnel.

21 "f. Equipped with a covering that clearly identifies
22 the name and date of death of the decedent.

23 "(f) (c) It shall be disclosed to the family member
24 serving as the authorizing agent that he or she, or his or her
25 designee, may witness the transportation of the human remains

1 to be cremated to the crematory. Every funeral establishment
2 performing cremation services that prohibits relatives or the
3 responsible party from viewing the cremation process shall
4 disclose this fact in writing to the person or persons
5 entitled to custody of the remains prior to the signing of any
6 contract.

7 "(g)~~(d)~~ An authorizing agent has the duty to inform
8 the funeral director of the presence of a pacemaker or other
9 potentially hazardous implant, including any toxic or
10 explosive-type sealed implants in the human remains. The
11 funeral director shall be responsible for ensuring that all
12 necessary steps have been taken to remove the pacemaker before
13 delivering the human remains to the crematory. Should the
14 cremationist discover the presence of a pacemaker or other
15 hazardous implants in the human remains, the cremationist
16 shall arrange for the removal of the pacemaker or other
17 hazardous implant.

18 "(h)~~(e)~~ The simultaneous cremation of the human
19 remains of more than one person within the same ~~retort~~
20 cremation chamber, without the prior written consent of the
21 authorizing agent, is prohibited. ~~It is hereby the declared~~
22 ~~intent of this subsection that establishments~~ Any funeral
23 establishment performing cremations in accordance with this
24 chapter may cremate only dead human remains.

1 "(i)~~(f)~~ Upon the completion of each cremation, and
2 insofar as is practicable, all of the recoverable residue of
3 the cremation process shall be removed from the ~~retort~~
4 cremation chamber and placed in a separate container and may
5 not be commingled with cremated remains of another person nor
6 shall cremated remains of a dead human be divided or separated
7 without the prior written consent of the authorizing agent.

8 "(j)~~(g)~~ Each funeral establishment and crematory
9 which offers or performs cremations shall ~~maintain an~~ complete
10 a state identification ~~system that ensures its ability to~~
11 ~~identify the human remains in its possession throughout all~~
12 ~~phases of the cremation process. Upon completion of the~~
13 ~~process, the cremationist must attest to the identity of the~~
14 ~~cremated remains, and the date, time, and place the cremation~~
15 ~~process occurred on a form issued by the board~~ form. The form
16 shall accompany the human remains in all phases of
17 transportation, cremation, and return of cremated remains. All
18 human remains to be cremated shall have the state
19 identification form and a undetachable ankle bracelet
20 identifying the remains.

21 "~~(h)~~ Each funeral establishment and cremationist
22 ~~which offers or performs cremations shall maintain a record of~~
23 ~~all cremations performed, which shall include the name of the~~
24 ~~decedent, the date of death, the date and time of the~~
25 ~~cremation, the signature of the cremationist performing the~~

1 ~~cremation, a copy of the authorization for cremation, a copy~~
2 ~~of the affidavit attesting to the cremation, and, if the~~
3 ~~cremation is performed for any other funeral establishment or~~
4 ~~entity, the identity of this establishment or entity.~~

5 ~~"(i) Human remains must be delivered to a crematory~~
6 ~~in a combustible cremation container. Human remains shall not~~
7 ~~be removed from the cremation container and the cremation~~
8 ~~container shall be cremated with the human remains, unless the~~
9 ~~authorizing agent has been informed in writing that the~~
10 ~~crematory does not cremate metal containers.~~

11 "(k) Upon completion of the cremation process, the
12 cremationist shall attest to the identity of the cremated
13 remains and the date, time, and place the cremation process
14 occurred on a form prescribed by the board.

15 "(l) Each crematory shall maintain the internal
16 identification system prescribed by the board to ensure the
17 ability to identify the human remains in the possession of the
18 crematory throughout all phases of the cremation process. Upon
19 completion of the cremation process, a copy of the state
20 identification form shall be issued to the family certifying
21 the identity of the cremated remains being issued to the
22 family or funeral establishment.

23 "§34-13-130.

24 "(a) Every person desiring to engage as an
25 apprentice shall satisfy all of the following:

1 "(1) ~~Make~~ ~~make~~ application as a funeral director's
2 apprentice or an embalmer's apprentice to the board upon a
3 form provided by the board. The applicant shall submit to the
4 board a form, sworn to by the applicant, that contains the
5 name, date of birth, and Social Security number of the
6 applicant, and two complete sets of fingerprints, for
7 completion of a criminal history background check. The board
8 shall submit the fingerprints to the Alabama State Law
9 Enforcement Agency for a state criminal history record check.
10 The fingerprints shall be forwarded by the agency to the
11 Federal Bureau of Investigation for a national criminal
12 history record check. Costs associated with conducting a
13 criminal history background check shall be paid by the
14 applicant. The board shall keep information received pursuant
15 to this subsection confidential, except that information
16 received and relied upon in denying the issuance of an
17 apprentice certification may be disclosed if necessary to
18 support the denial.

19 "~~(2) Be~~ ~~The application shall state that the~~
20 ~~applicant is~~ over the age of ~~16,~~ 18.

21 "~~(3) Hold~~ ~~holds~~ a high school certificate or the
22 equivalent, ~~or is currently enrolled and actively working~~
23 ~~toward graduation from an accredited high school and is.~~

24 "(4) Be of good moral character.

1 "(b) The application shall be verified by the oath
2 of the applicant and be accompanied by a fee to be established
3 by the board, not to exceed twenty dollars (\$20).

4 "(c) The executive ~~secretary~~ director, whenever it
5 appears to him or her that no reason exists for the denial of
6 an application and that the application is regular upon its
7 face, may issue to the applicant a certificate of
8 apprenticeship, without submitting the application to the
9 board. If, however, any doubt exists as to the qualifications
10 of the applicant, the application shall be submitted to the
11 board and may be accepted or rejected by a majority of the
12 board.

13 "(d) The period of apprenticeship of a funeral
14 director's apprentice or an embalmer's apprentice ~~must~~ shall
15 be performed in Alabama under the supervision of a funeral
16 director or embalmer, respectively, licensed by the board.

17 "(e) A licensed funeral director or a licensed
18 embalmer may supervise no more than three apprentices at any
19 given time, unless otherwise provided for by the board.

20 "(f) Only a licensed funeral director or licensed
21 embalmer, whose license is in good standing, may supervise an
22 apprentice.

23 "(g) ~~(b)~~ The regular course of apprenticeship shall
24 be two years, but the apprentice is entitled to two weeks time
25 off each year, without leave of absence from the board.

1 "(h) An apprentice shall be enrolled in the funeral
2 service program at an accredited mortuary school within one
3 year after the original start date of his or her
4 apprenticeship. If an apprentice is not enrolled in mortuary
5 school within that time period, then the apprenticeship may
6 not be renewed and the apprenticeship may not be reactivated
7 until the apprentice provides proof of enrollment.

8 "§34-13-131.

9 "A certificate of apprenticeship issued as provided
10 for ~~herein~~ in this chapter shall be signed by the apprentice
11 and shall be renewable annually upon the payment by the holder
12 by October 1 of each year of an annual renewal fee to be
13 established by the board, not to exceed ~~\$20~~ twenty dollars
14 (\$20). Failure to pay the renewal fee by the prescribed date
15 of any year shall cause the certificate to become delinquent,
16 in which case it shall be renewed only for good cause shown.
17 No person may be granted a certificate of apprenticeship as
18 funeral director's apprentice or embalmer's apprentice,
19 respectively, for more than three consecutive years, excepting
20 as provided. The board shall ~~mail~~ send, on or before August 1
21 of each year, to each registered apprentice at his or her last
22 known address, a notice that his or her renewal fee is due and
23 payable and that, if not paid by October 1, his or her license
24 ~~will~~ shall lapse.

25 "§34-13-132.

1 "All apprentices registered as provided in this
2 chapter shall be under the supervision and control of the
3 board and shall be required to report to the board annually on
4 ~~January~~ October 1, upon forms provided by the board, showing
5 the work which such apprentices have performed during the
6 annual period preceding the first of the month on which the
7 report is made, including the number of hours served and the
8 number of bodies the apprentice has assisted in embalming or
9 otherwise prepared for disposition during such period. The
10 information contained in the report shall be certified to as
11 correct by the funeral director or embalmer by whom the
12 apprentice has been employed during ~~such~~ his or her
13 apprenticeship period.

14 "§34-13-134.

15 "(a) The board has power to suspend ~~or~~, revoke, or
16 place on probation a certificate of apprenticeship, ~~after~~
17 ~~notice and upon hearing~~, where the apprentice is guilty of any
18 of the following acts or omissions:

19 "(1) Failure to devote not less than an average of
20 30 hours per week to the duties of his or her apprenticeship.

21 "(2) Failure to make an annual report to the board
22 as required by this chapter.

23 "(3) Absence from duty except on vacation for an
24 aggregate of more than 10 days in any six months or 20 days in
25 any year, without leave of absence granted by the board.

"(4) Gross immorality.

"(5) Being on duty as an apprentice while under the influence of liquor or illegal drugs.

"(6) Disobedience of proper orders or instructions of his or her superiors.

"(7) Violation of ~~any provision of~~ this chapter or any rule ~~or regulation~~ of the board ~~made under~~ adopted pursuant to this chapter.

"(8) Soliciting business for a funeral director or for any embalmer.

"(9) Fraud or misrepresentation in obtaining a certificate ~~of registration~~ as an apprentice.

"(b) An apprentice who has failed to renew his or her ~~registration certificate~~, or who has had his or her certificate of apprenticeship suspended or revoked ~~may~~, within one year after such expiration, suspension, or revocation, may make application for ~~registration but not~~ reactivation. Not more than two ~~such registrations~~ reactivations shall be allowed by the board. The board ~~may~~, when the circumstances warrant, may allow an apprentice credit under a ~~reregistration reactivation~~ reactivation for time actually served under a previous ~~registration certificate~~; except, that if the previous ~~registration certificate~~ has been suspended or revoked upon any of the grounds set forth in subsection (a) ~~of this~~

1 ~~section~~, not more than 75 percent of the time previously
2 served shall be credited on the ~~reregistration~~ reactivation."

3 Section 2. Sections 34-13-56.1, 34-13-117,
4 34-13-120.1, and 34-13-123 are added to the Code of Alabama
5 1975, to read as follows:

6 §34-13-56.1.

7 (a) It is unlawful for any person or entity, for
8 hire or profit, to engage in, or hold himself, herself, or
9 itself out as qualified to engage in any of the following
10 without a valid license, certification, or registration issued
11 by the board:

12 (1) The practice of funeral directing.

13 (2) The practice of embalming.

14 (3) Practicing as an apprentice.

15 (4) Operating a crematory.

16 (5) Practicing as a cremationist.

17 (b) Any person or entity who has been found to have
18 engaged in the unlawful unlicensed practice of funeral
19 directing, embalming, apprenticing, operating a crematory, or
20 cremating shall be subject to a fine of not more than two
21 thousand five hundred dollars (\$2,500) for each violation and
22 other sanctions authorized by this chapter.

23 §34-13-117.

24 Disposition of human remains shall occur within 48
25 hours after the time of death or the time the body is released

1 by the coroner or a medical examiner, unless the body has been
2 embalmed by a licensed embalmer in this state, with permission
3 from the authorizing agent, or the body is kept under
4 refrigeration. No public viewing of unembalmed bodies shall be
5 permitted 24 hours after death has occurred. Nothing in this
6 section shall prevent a licensed establishment from requiring
7 identification before disposition.

8 §34-13-120.1.

9 No person may conduct, maintain, manage, or operate
10 a cremation facility unless licensed to do so by the board.
11 The board may issue a license to practice as a cremationist
12 after the applicant has satisfied all of the following
13 requirements:

14 (1) Is at least 21 years of age.

15 (2) Is a citizen of the United States or legally
16 present in this state.

17 (3) Is a high school graduate or the equivalent.

18 (4) Has successfully completed a crematory operator
19 training course approved by the board.

20 (5) Has completed a course in universal precaution
21 and blood-borne pathogens approved by the board.

22 (6) Has submitted a completed application and
23 supporting documents, as required by the board, and a fee
24 established by the board that does not exceed three hundred
25 dollars (\$300).

1 (7) Has successfully completed an examination on
2 Alabama funeral service laws and rules.

3 (8) Has submitted to the board a form, sworn to by
4 the applicant, that contains the name, date of birth, and
5 Social Security number of the applicant, and two complete sets
6 of fingerprints, for completion of a criminal history
7 background check. The board shall submit the fingerprints to
8 the Alabama State Law Enforcement Agency for a state criminal
9 history record check. The fingerprints shall be forwarded by
10 the agency to the Federal Bureau of Investigation for a
11 national criminal history record check. Costs associated with
12 conducting a criminal history background check shall be paid
13 by the applicant. The board shall keep information received
14 pursuant to this subsection confidential, except that
15 information received and relied upon in denying the issuance
16 of a cremationist license may be disclosed if necessary to
17 support the denial.

18 (b) Each new employee of a crematory required to be
19 licensed under this section shall be certified within one year
20 after his or her employment. A copy of all certified
21 cremationist certificates shall be posted in the crematory and
22 available for inspection at any time.

23 (c) Each funeral establishment performing cremation
24 shall certify by affidavit to the board that each cremationist
25 conducting cremations at the funeral establishment has

satisfied all requirements of this chapter to be licensed as a cremationist and received adequate and appropriate training or experience in the practice of cremation.

§34-13-123.

(a) The board may refuse to grant, refuse to renew, suspend, or revoke the license of, or fine a cremationist or crematory, after proper hearing and notice is provided to the licensee, upon the board finding the licensee is guilty of any of the following:

(1) Any violation of this chapter or order or rule of the board.

(2) The performance of a cremation service by a person who is not licensed as a cremationist and who has not completed a training program as required by this chapter.

(3) Operating a building or structure within this state as a crematory without being licensed under this chapter.

(4) Violating any cremation procedure required by this chapter or rule of the board.

(5) Performing a cremation without receipt of a cremation authorization form signed by the authorizing agent.

(6) Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information.

1 (7) Accepting human remains from another funeral
2 establishment without a completed cremation authorization form
3 signed by the authorizing agent, a state identification form
4 with the signature of the releasing party, and an undetachable
5 ankle bracelet identifying the remains.

6 (8) Failure to maintain the internal identification
7 system as required by the board.

8 (9) Failure to maintain identifying paperwork with
9 the appropriate signatures.

10 (10) Failure to file an annual cremation report in
11 the form required by the board.

12 (11) Failure to maintain a current cremation log.

13 Section 3. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill defines a new crime or amends the definition of an
20 existing crime.

21 Section 4. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.

1
2
3 Mac McCutchan

4 Speaker of the House of Representatives

5 Del Marshall

6 President and Presiding Officer of the Senate

7 House of Representatives

8 I hereby certify that the within Act originated in
9 and was passed by the House 06-APR-17, as amended.

10
11 Jeff Woodard
12 Clerk
13

14
15
16 Senate

17 17-MAY-17

Passed

APPROVED 5/26/17

TIME 3:27pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2017-433
Bill Num....: H-212

Recv'd 05/26/17 04:15pmSLF

HOUSE ACTION

614

I HEREBY CERTIFY THAT THE
RESOLUTION AS REQUIRED IN
SECTION C OF ACT NO. 81-889
WAS ADOPTED AND IS ATTACHED
TO THE BILL, H.B. 212
YEAS 88 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE
NOTICE & PROOF IS ATTACHED
TO THE BILL, H.B. _____
AS REQUIRED IN THE GENERAL
ACTS OF ALABAMA, 1975 ACT NO.
919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

SENATE ACTION

DATE: 4-11 2017
RD 1 RFD GA

This Bill was referred to the Standing
Committee of the Senate on

and was acted upon by such Committee in
session and is by order of the Committee
returned therefrom with a favorable report
w/amend(s) 0 w/sub 0 by a vote of
yeas 78 nays 9 abstain 0
this 18th day of April 2017
James H. Bullock, Chairperson

DATE: 4.20 2017

RF FAV RD 2 CAL

DATE: _____ 20__

RE-REFERRED ☐ RE-COMMITTED ☐
Committee _____

I hereby certify that the Resolution as
required in Section C of Act No. 81-889
was adopted and is attached to the Bill,
HB 212
YEAS 28 NAYS 0

PATRICK HARRIS,

Secretary